SENATE—*Monday, July 27, 1992*

(Legislative day of Thursday, July 23, 1992)

The Senate met at 1 p.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

The prayer today is the poem, "The Day's Demand," by Josiah Gilbert Holland who lived in the last century:

"God, give us men! A time like this demands
Strong minds, great hearts, true faith and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor—men who will not lie;
Men who can stand before a demagogue
And damn his treacherous flatteries without winking;
Tall men, sun-crowned, who live above the fog
In public duty and in private thinking;
For while the rabble, with their thumb-worn creeds,
Their large professions and their little deeds,
Mingle in selfish strife, lo!
Freedom weeps, wrong rules the land,
And waiting justice sleeps."

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 27, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LIEBERMAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I ask unanimous consent that the leader time of the distinguished Republican leader and myself be reserved for our use later in the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, under the previous order, there is now to be a period for morning business to extend until 2 o'clock p.m. I ask that the period for morning business be stated.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 2 p.m., with Senators permitted to speak therein for up to 10 minutes each.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, as just stated by the Chair, there will be a period for morning business, now to extend until 2 p.m., with Senators permitted to speak therein.

At 2 p.m., the Senate will begin consideration of S. 3026, the appropriations bill for the Departments of Commerce, Justice, State, and the Judiciary. It is my hope we can complete action on that appropriations bill today and that we can then proceed to consideration of other measures inasmuch as there are a large number of legislative measures on which the Senate has yet to complete action.

This will be a very busy time. I have previously stated on several occasions, and I want to repeat again, that the Senate will have sessions 5 days of the week during this legislative period with votes possible at any time, and votes will occur today, if necessary, to complete action on the Commerce, Justice, and State appropriations bill. I have asked the managers of the bill to complete action on that as soon as possible.

I thought, Mr. President, for the information of Senators, I would identify some of the many measures which are pending and which I hope we can proceed to take up and possibly complete action on as soon as possible.

The Appropriations Committee reported out three appropriations bills last week. We begin with the first of those appropriations bills today. I anticipate that the Appropriations Committee will report out several other appropriations bills during this week. Those are our highest priority as we must complete action on all of the appropriations bills, both initial passage in the House and Senate, then a conference, and then completion of the action on the conference reports, prior to the end of the fiscal year on September 30.

In addition, Mr. President, we have the energy bill, important legislation that we were unable to obtain cloture on, although 58 Senators voted in favor of taking up that bill, 33 against on last week. We will attempt again this week to obtain cloture on the motion to proceed. I hope that will not be necessary. As I understand it, negotiations among the parties are continuing in a way that suggests the possibility of a resolution which will permit us to proceed to that bill and complete action on it and send it to conference. That is a bill which passed the Senate by a vote of 94 to 4 earlier. It passed the House by a wide margin.

Among the other measures which I would like to bring up, and if possible complete action on, to the extent that time is available during this legislative period, are the Freedom of Choice Act, the Affordable Housing Act, the Equal Remedies Act, the legislation relating to most-favored-nation status for China, the Department of Defense authorization, the Water Resources Act, and the legislation that would make Social Security an independent agency. We also have the urban aid legislation which has now passed the House and which will be marked up tomorrow in the Senate Finance Committee.

In addition, Mr. President, there are five pending judicial nominations on the calendar on which I hope we can complete action during this legislative period. It is my intention that we will

do so during this legislative period. They are listed at page 3 of the Executive Calendar for today.

So all in all, it will be a busy period, and Senators are placed on notice with respect to the schedule for the approximately 3 weeks of this legislative period that there will be sessions 5 days a week, unless otherwise announced, with votes every day, and possible at any time during any day unless otherwise announced.

Mr. President, I yield the floor.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senate Republican leader.

Mr. DOLE. Mr. President, I would just underscore what the majority leader has stated. I think with reference to the energy bill, there is only one issue as this Senator understands that needs to be resolved, and I understand there are still negotiations ongoing. I think it is a very ambitious schedule that the majority leader laid out. I am not certain all that can be done between now and the time we recess for the Republican Convention in Houston, TX, but in any event we will make every effort on this side to cooperate.

I would hope that we could complete action today on the State, Commerce, Justice appropriations bill. Is there anything else planned for today when that is completed? If we finish that, would that be it?

Mr. MITCHELL. That would be it for the day, if we complete action on that bill, although I had hoped to discuss with the Republican leader and other Senators during the day today the precise schedule thereafter. I have already identified the measures which we will take up.

I believe we have available the Agriculture Department appropriations bill, and the D.C. appropriations bill. In addition, the energy bill is one which I hope we can proceed to promptly as well.

But that is a subject that I will take up in further discussions with the distinguished Republican leader.

Mr. DOLE. I think the majority leader and the committee have open some judicial nominations. There are five judicial nominations that we hope to dispose of between now and the time of the recess. I assume there is only one controversial nomination. That is the Carnes nomination. That would include that nomination.

Mr. MITCHELL. That is one of the five that are now pending.

Mr. DOLE. I thank the majority leader.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, there are two other measures which have just been brought to my attention, which I did not list because we have already passed them but which we hope we will be able to get to conference on. They are the cable television bill, and the family leave bill. I recognize there is controversy with respect to both of them. The Senate has already acted on both of them. We will undertake the process by which we can get those bills to conference.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Mississippi is recognized.

Mr. COCHRAN. I thank the Chair.

(The remarks of Mr. COCHRAN pertaining to the introduction of Senate Joint Resolution 328 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from North Dakota is recognized.

Mr. CONRAD. I thank the Chair.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 3079 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CONRAD. Mr. President, I thank the Chair, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

TRIBUTE TO SENATOR TOM HARKIN

Mr. METZENBAUM. Mr. President, I rise today to speak about one of our colleagues whose efforts are worthy of our recognition and praise today.

I am frank to say that my colleague does not know that I am going to speak about him. He did not ask me to speak about him, and I did not ask him if he wanted me to speak about him.

But I felt that the situation was such that I wanted to come over and say a few words about him.

Too often, we tend only to speak about the accomplishments of our fellow Senators when they have announced their retirement, or, frankly, when they have met with a more untimely end.

But the Senator about whom I speak is neither retiring nor in the twilight of his public service. Indeed, I expect him to be a Member of this body, or holding some high public office, for many years to come.

This Senator is not ailing, nor is he ill. As a matter of fact, he is in robust health and is a vigorous battler for the causes he cares about.

And this week, Mr. President, this Senator, TOM HARKIN, can rightly savor the victory of one of those battles.

Because of the efforts of Senator HARKIN, our Nation strides forward today on the long journey toward equal opportunity and basic civil rights for all our citizens.

This work week welcomes the implementation of the Americans With Disabilities Act, and all Americans, but especially physically challenged ones, owe TOM HARKIN a debt of gratitude.

It is my hope, Mr. President, that Senator HARKIN's role in bringing this historic legislation to the attention of the Congress, and his eventual success in making it the law of this land, will never be forgotten.

In the newspaper accounts marking the effective date for the ADA, I have seen no mention of TOM HARKIN's efforts to make this day a reality—and that is understandable. I am not faulting the press. The focus now moves from the few who worked to pass this law, and on to the millions who will benefit from its provisions.

I also noted that ABC news last Friday named Evan Kemp, EEOC Chairman, as their "Person of the Week" in connection with the ADA. It is true that Mr. Kemp was the driving force within the administration on the ADA, and he is deserving of that recognition, and I congratulate him. His efforts were of immeasurable help in passing the bill.

Mr. President, those of us who are involved in the legislative process know well that no one person carries the load alone. Colleagues, interest groups, and concerned citizens all contribute.

But every one of us knows that often one person does indeed embody the linchpin upon which success or failure hinges.

With respect to the Americans With Disabilities Act, TOM HARKIN was that man. His contribution cannot be overestimated. The bill did not have an easy road in Congress. TOM HARKIN took a massive, complicated, and con-

troversial bill, faced down a veto threat, and forged a delicate compromise that all sides can embrace and look to with pride.

Much attention was paid in the recent Presidential primary race, in which TOM HARKIN ably competed, of Senator HARKIN's fiery speeches and his record as a rough and tumble fighter for working people.

It is true that Senator HARKIN is a master motivator on the stump, and an effective advocate for working families in this country, but there is another incident that I believe tells you more about TOM HARKIN than those anecdotes.

I will always remember the emotional moment on this floor when the Americans With Disabilities Act was put to a final vote, and Senator HARKIN delivered his final remarks in sign language, in order to speak directly with hearing impaired Americans, including his own brother. He combined his speech with the signing so that they might hear the speech in their own special way.

For me, that moment speaks volumes about the quality of his character and the level of his commitment. When TOM HARKIN makes his stand and speaks his mind, it is all coming from the heart.

I salute him today for this extraordinary accomplishment, and hope that his work on behalf of the disabled will be remembered for generations to come.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. METZENBAUM). Without objection, it is so ordered.

IRAQ

Mr. LIEBERMAN. Mr. President, it appears this morning that Iraq has been spared for the time being from renewed allied military action. Saddam Hussein has pulled back from his refusal to allow U.N. inspectors into the Agriculture Ministry, where documents relating to his development of weapons of mass destruction were believed to be held.

But, Mr. President, has Saddam really "blinked" in this showdown? Has he really "backed down"? Or has he, in fact, won this skirmish?

U.N. inspectors are going into the Ministry, but Americans who were part of that international inspection team will not be allowed into the Ministry. Why was it necessary for the United States, having risked 500,000 of our own and won the war, to grant Saddam this favor? Why do we owe him anything at all?

And is it actually likely that the inspectors who are now going into that building are going to find anything of value after enough time has passed for the Iraqis to remove any incriminating evidence that might have been in that Agriculture Ministry?

Mr. President, it is a little bit like a drug dealer stopping a police SWAT team at the door of his House and telling them that they have to go get another search warrant; that he does not like the details of the one they have. He sends them away, and a couple days later they come back and he allows them inside. But, surprise of surprises, there are no drugs there. Of course, there are no drugs there. He has had the time to remove them. And that is exactly what I fear Saddam Hussein has pulled off in Baghdad.

My own concern, Mr. President, is that our so-called victory in this latest skirmish with Saddam Hussein is a very hollow victory at that.

The administration has pointed out—rightly—that Saddam's failure to allow inspectors into the Agriculture Ministry is but one of many violations of U.N. resolutions. The fact is that many of those other violations have been occurring for a long period of time.

In March of this year, on the anniversary of the cease-fire in the gulf war, I spoke in this Chamber and listed Saddam's many violations, arguing for stronger international action then to force his compliance, and, in fact, to force an end to his reign of terror in Iraq.

Unfortunately, those actions have not been taken. And so today we face an increasingly strengthened and increasingly defiant Hussein. Does anyone doubt that we will continue to be confronted by his arrogant disregard for international law and basic human rights as long as he stays in power?

Look at the record here. He has refused to comply with that section of the cease-fire agreement that he signed that requires him to begin negotiating the Iraqi border with Kuwait. He has refused to begin negotiating on the question of returning Kuwait prisoners of war. He continues to persecute Shiites in the south and Kurds in the north of his country and he has repeatedly thwarted the humanitarian efforts of the United Nations within Iraq.

I said in March, and I repeat today, that we should give sanctions more bite by establishing U.N. inspections of traffic between Jordan and Iraq which from all the reports looks like rush hour on one of our major American highways. We should station U.N. human rights inspectors throughout Iraq, especially in Kurdish and Shiite territories. We should expand American support for Iraqi opponents of Saddam at both the official and covert levels and help any indigenous effort that exists to topple Saddam Hussein. We should give Saddam a new deadline for compliance with all U.N. resolutions. Every day that goes by is another day that he stands in violation of those resolutions. And without a deadline he has a green light to continue his international lawlessness.

We missed important opportunities to topple Saddam Hussein in those important days after the cease-fire in the gulf war. We failed to support the Kurds and the Shiites, as they heroically began to rise up against Saddam—at our urging—after Desert Storm subsided. We failed to destroy more of his Army in the immediate aftermath of the fighting. And we are living with the consequences of those failures now.

But let us learn from those failures and take steps now to force Saddam Hussein into compliance with U.N. resolutions and, hopefully, to force him out of power at the same time.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WOFFORD). Without objection, it is so ordered.

PROGRESS ON THE NORTH AMERICAN FREE TRADE AGREEMENT

Mr. BAUCUS. Mr. President, I rise today to discuss the recent negotiations on the North American Free-Trade Agreement, otherwise known as NAFTA.

The negotiating session this weekend was originally billed as an attempt to warp up the NAFTA negotiations. It is now clear that the negotiations fell short of that goal. But statements by Bush and Salinas administration officials indicate that the NAFTA negotiations are likely to be concluded within the next several weeks.

Mr. President, I have serious qualms about the apparent rush to conclude the agreement. I have long been a supporter of free trade. I voted for passage of both the United States-Canada Free-Trade Agreement and the United States-Israel Free-Trade Agreement. I argued strenuously for passage of fast track negotiating authority for the North American Free-Trade Agreement in the spring of 1991.

I also support the concept of North American free trade area. At a time when trading blocs are springing up around the world, the United States is well advised to seek closer trade ties with its neighbors.

Bush administration officials have insisted from the beginning that the pace and timing of the NAFTA negotia-

tions should be dictated by substance. But it seems that the current rush is dictated more by American electoral politics than by the substance of the negotiations.

In many areas, the deal that is taking shape does not seem to be a good deal for the United States.

THE ENVIRONMENT

I am most concerned with issues involving the environment.

The Bush administration is—at best—recently convinced of the need to address environmental issues in the NAFTA.

In fairness to our negotiators—particularly Ambassador Hills—I must note that they have come a long way. When the congressional debate on fast track began in 1991, the Bush administration expressed concern about including any environmental issues in the NAFTA. By the time the congressional vote occurred, the administration had proposed addressing some issues in the agreement and others on a parallel track. Recently, the list of issues to be addressed in the agreement has increased.

But I am still not convinced that adequate steps are being taken to protect the environment.

In my mind, the NAFTA must meet three very important environmental objectives.

First, it must create a level environmental playing field. All parties should agree to enforce adequate environmental safeguards to ensure that the weak environmental protection is not used to attract investment or create a trade advantage.

Second, funds must be devoted by all parties to counter the environmental impacts of free trade. In particular, this will require a commitment of funds to clean up the border area.

Third, we must ensure that environmental laws and regulations are not challenged as trade barriers under the NAFTA.

Although I have not yet seen the texts negotiated over the weekend, I do not believe that any of these issues have been adequately addressed in the NAFTA. The administration seems to prefer to shuffle most of these issues off into side negotiations that yield only unenforceable agreements not directly linked to the NAFTA. This is simply unacceptable. The NAFTA must address environmental concerns directly.

WORKER ADJUSTMENT

The administration has only recently begun consultations with Congress on developing a worker adjustment program in conjunction with the NAFTA. Until the specifics of such a program are spelled out with funding commitments, it is impossible to judge the overall impact of the NAFTA on the U.S. economy.

OTHER ISSUES

I am also concerned that we are not getting the best possible trade deal in the NAFTA. In particular, I believe that we have not yet received adequate access for American forest product exports.

I am also not convinced that we have yet achieved the best possible deal for American auto workers. Mexico must agree to a quick phase out of existing barriers and provisions to ensure that Mexico does not become an export platform for Japanese autos.

CONCLUSION

There is no compelling reason to finish the NAFTA in the next few days.

This Congress will not have the opportunity to vote on the agreement this year, therefore there is no substantively valid reason to complete the negotiations this year.

If the agreement negotiated is not adequate, I will have no qualms about calling for renegotiation of the tentative next.

And if Governor Clinton is elected President—we do not know that he will be, but there is a chance he will be—I would likely advise him to renegotiate the NAFTA to ensure that concerns about the environment and worker adjustment were adequately addressed. The new Clinton administration would certainly have the opportunity to put its mark on an agreement it would be forced to defend before the Congress. It should not be locked into a politically motivated deal negotiated potentially and probably by the present administration to beat the election deadline.

I am interested in negotiating the best NAFTA possible. Under the circumstances, that just might mean stretching negotiations beyond the election.

COSPONSORSHIP OF THE ANTISTALKING STATUTE

Mr. THURMOND. Mr. President, I rise today to announce that I have joined Senator COHEN as a cosponsor of S. 2922, the Antistalking Legislation Act of 1992. This important legislation will come to the defense of millions of Americans who may be victimized by stalkers. Statistics from the National Women's Abuse Center estimate 4 million men kill, violently attack, or abuse women they live with or date. According to some studies of large metropolitan cities reported by the Seattle Times, 90 percent of all women murdered by their partners have notified police at least once and over half of these victims had called five times or more. The largely ineffective restraining orders, lack of effective laws, and increased public awareness of criminal acts by stalkers have given rise to the need for this important legislation.

The National Institute of Justice will be assigned the task of developing a model statute aimed at fighting the growing problem of stalkers. This statute will provide States with a prototype for better written antistalking laws. The model statute will assist in making State laws more enforceable and effective. States who have no established antistalking laws would benefit most from the NIJ's efforts. This bill does not require the allocation of additional funds to the National Institute for Justice. The bill does require the Attorney General to report to Congress within 1 year if there is any needed Government support. I would like to note that this bill does not federalize stalking. Rather, it recognizes that there is a problem and directs the appropriate Federal agencies to work with States in enhancing their efforts. All too often, the Congress has been too quick to federalize matters which have been traditionally left to States. This important bill recognizes that, as with other crimes, State and local officials are in the best position to fight stalking. I commend Senator COHEN for his leadership in this area and for his respect for federalism.

For these reasons, I am pleased to cosponsor this measure. I urge my colleagues to help curtail unnecessary harassment and victimization of millions of American citizens by favorably considering this bill.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,988,415,449,632.90, as of the close of business on Thursday, July 23, 1992.

On a per capita basis, every man, woman, and child owes $15,527.90—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

FETAL TISSUE RESEARCH

Mr. WELLSTONE. Mr. President, I am very concerned about an article in this morning's New York Times, by Philip J. Hilts, headed "Fetal Tissue Bank Not Viable Option, Agency Memo Says." I am concerned because of the evidence this article contains that the administration is playing politics with science on the subject of fetal tissue transplants. And I am concerned be-

cause the science we are talking about here has such tremendous potential to save lives.

I have spoken on this floor before in support of lifting the ban on fetal tissue research. Both of my parents had Parkinson's disease, and that is why I have been in the middle of this debate from the very time that it came before the Labor and Human Resources Committee. To people all over our country, whether they or their families are suffering from diabetes, or Alzheimer's, or Parkinson's disease, there is a real impact when they hear about the potential of some of the work that is being done with fetal tissue to find a cure.

It is so important an issue of human life, Mr. President. There have been two panels, at least, investigating the issue, one under President Reagan, and one under President Bush. Those panels were comprised of both pro-life and pro-choice members. Those panels overwhelmingly approved fetal tissue transplant research. Both those panels were very conclusive in determining that there is a clear separation between allowing this important research to go forward, and any decision by a woman to have an abortion. They are just not the same issue at all.

But President Bush refused to let the NIH reauthorization bill, which would have lifted the ban on this research, go forward. Instead, he proposed that tissue be collected from ectopic pregnancies and miscarriages from tissue banks at six hospitals around the country, relying on estimates from the NIH itself that this proposal could generate up to 2,000 fetuses a year. Scientists had told us when we first considered the President's proposal that this was far short of what they needed, and far short of what they would have if there were access to tissue from the 1.5 million legal induced abortions performed each year.

Now we learn from the New York Times article that scientists at the NIH itself, believed and still believe, that the likely number of successes with President Bush's plan will be not 2,000, but closer to 24. Not 2,000 tissue samples, but 24.

The article goes on to document the truly far-fetched scenarios these scientists were pressured to postulate to come up with that unrealistically high number. And NIH's Associate Director for Science Policy is quoted in this morning's New York Times as having told higher officials at the Department of Health and Human Services that "The cells and tissues from spontaneous abortions and ectopic pregnancies are generally of poor quality * * *."

Mr. President, it is very sad to learn that we cannot rely on the facts this administration would present to us in Congress. The NIH is the world's preeminent medical research institution. For it to be used, or I should say misused, in such callous fashion is an insult to the many dedicated men and women who have unselfishly dedicated their lives to conducting outstanding and honorable medical research. I hope that Secretary Sullivan will look into this matter and take appropriate steps to assure the Congress that a similar situation will never recur.

Mr. President, I ask unanimous consent that the article from this morning's New York Times that I have described be included at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 27, 1992]

FETAL-TISSUE BANK NOT VIABLE OPTION, AGENCY MEMO SAYS

(By Philip J. Hilts)

WASHINGTON, July 25.—In May, when the Bush Administration announced a plan to collect fetal tissue for medical research into Alzheimer's and Parkinson's diseases and other ailments, officials stated that they could supply all that would be needed without using tissue from induced abortions.

But newly obtained memorandums from officials at the National Institutes of Health show that the Administration greatly exaggerated the amount of fetal tissue that its storage bank could obtain from miscarriages and from ectopic pregnancies, in which the fertilized egg develops outside the uterus.

Since 1988 the Administrations of Ronald Reagan and President Bush have barred Federal financing of research using fetal tissue, on the ground that it could potentially encourage abortions.

ROUNDED TO UPPER LIMIT

When the tissue-bank plan was put forth in May, in the heat of a political battle over abortion issues, Dr. James O. Mason, head of the Public Health Service, said that a storage bank could initially collect usable tissue from 1,500 fetuses a year and that eventually the figure would rise to 2,000.

A spokeswoman for the Department of Health and Human Services said this week that medical experts remained confident that the tissue bank would fully meet researchers' needs.

But a top N.I.H. official who spoke on condition of anonymity said that the estimates of how much tissue could be collected had been misrepresented by senior H.H.S. officials.

"The numbers we used were rounded upward, and upper-limit estimates were always used because we were under a great deal of pressure to use the absolute outer-limits numbers," he said. "What we came up with—1,500 or 2,000 fetuses could be harvested—is literally the absolute maximum if you capture every single specimen throughout the entire country in every circumstance with a SWAT team of highly trained professionals in every bedroom and every hospital in the United States."

"No one but the ardent pro-lifers believes those numbers," he said.

But the Administration is going ahead with plans to set up fetal tissue banks at six hospitals. "We really intend to make a good-faith effort to determine if such a bank is at all feasible," the N.I.H. official said. "We can gain a lot of knowledge in the process, and if it actually succeeds somehow, so much the better."

Experiments over the last decade indicate that transplanting of fetal organs or cells could help patients with intractable diseases like Parkinson's or Alzheimer's. Transplant recipients can tolerate fetal cells better than adult cells, and preliminary research found that cells from healthy fetuses, usually 7 to 16 weeks, can take over the functions of diseased cells.

When Congress voted earlier this year to lift the ban, President Bush vetoed the measure. The Administration's plan was offered as a way of meeting the needs of medical researchers without compromising the President's long-standing opposition to abortion and abortion rights. Critics derided it as a maneuver to find votes to uphold the veto. Last month, the House fell 14 votes short of the two-thirds majority required to override.

The President's Democratic challenger, Gov. Bill Clinton of Arkansas, has said he favors lifting the ban.

OFFICIALS' PRIVATE MISGIVINGS

The question in the fierce debate on Capitol Hill became this: How much usable, uncontaminated fetal tissue could be harvested if dedicated tissue banks were set up by the Government?

Administration officials said there would eventually be tissue from 2,000 fetuses available for transplant each year, more than enough to meet the need. But privately, N.I.H. officials expressed misgiving about the estimates at the time.

In a memorandum written in March, Dr. Jay Moskowitz, the associate director for science policy and legislation of the N.I.H., told higher officials of the Department of Health and Human Services: "The cells and tissues from spontaneous abortions and ectopic pregnancies are generally of poor quality because they a) may represent inherently abnormal tissue b) have been subjected to diminished blood supply c) exist in a poor in-vivo environment d) may have been retained in the body for five to eight weeks prior to expulsion. The state of disintegration of these tissues is another factor affecting viability."

Dr. Moskowitz added: "In the future, ectopic pregnancies as a potential source of fetal tissue will be further diminished because invasive surgical treatments are being replaced by pharmacological approaches."

HUGE SHORTAGES PREDICTED

Data from the medical centers, the memo continued, indicated that the amount of tissue from spontaneous abortions, or miscarriages, "would not be sufficient."

Obtaining an adequate supply of tissue from ectopic pregnancies, as previously indicated, is more problematic," the memorandum stated.

Taking into account the doubts expressed by N.I.H. officials, the staff of the House Subcommittee on Human Resources and Intergovernmental Relations estimated the number of fetuses that could be collected at 24 for the entire nation in a year. A separate estimate of about 1.4 fetuses per hospital per year, or about 8 if the bank starts at the six hospitals, was made by the head of a fetal transplant group at Yale University, Dr. D. Eugene Redmond, who has spoken against the ban.

These numbers are far short of what might be necessary, Dr. Redmond said. He estimates that if the ban is lifted, at least a half a dozen scientific teams will want to carry out 20 fetal tissue transplants each in the first year and more as research progresses. Because of the varying quality of the tissue, each transplant can require dozens of fetal samples, he said. Even samples from 2,000 fetuses a year would not meet the need.

In fact, 2,000 samples could be obtained through a tissue bank only if these assumptions prove accurate:

Every hospital in the United States will participate, with each creating four teams of surgeons and specialists to collect the material on an emergency basis around the clock, 365 days a year, according to N.I.H. memos and interviews with agency officials.

All women admitted to the hospital for a miscarriage will actually have them in the hospital. In fact, many abort at home and go to the hospital afterward for treatment of bleeding and infection, memos from Dr. Moskowitz say.

Fifty-five percent of the fetuses will be free of infection. But because miscarriages and ectopic pregnancies are unexpected emergencies, it is unlikely that that many will be uninfected, Dr. Moskowitz's memos say. Other estimates say 60 to 75 percent will be infected.

The Administration will be willing to spend hundreds of millions of dollars a year to maintain the system. The Administration estimated that it would cost $3 million in the first year and $24 million in the first five years, but this is only for feasibility studies. To make the bank work nationally, each hospital would probably have to spend $500,000 or more in salaries for the emergency collection teams alone. For the 6,600 hospitals in the United States, that cost alone would be $330 million per year, N.I.H. officials said.

All women who are asked will be willing to donate the fetal tissue. Currently, 20 percent refuse to donate tissue for transplants for privately financed research at Yale University, doctors say. In addition, the women would have to agree to be tested for hepatitis, H.I.V. and other diseases. Another 20 to 30 percent are likely to decline on those grounds, doctors say.

Even if these assumptions were correct, quality control could be assured only if the tissue bank expended as many of its fetuses in testing as it sent to researchers, N.I.H. officials said.

Researchers would have an ample supply if they were to use fetuses from induced abortions: of the 1.5 million abortions a year, roughly half would provide usable cells. Though such fetuses are being used in privately financed experiments, many scientists are unable or unwilling to proceed without Federal money.

"It is profoundly disturbing that the N.I.H. Revitalization Amendments were vetoed on the basis of smoke and mirrors masquerading as hope for victims of Parkinson's disease, Alzheimer's, juvenile diabetes and other devastating illnesses," said Representative Weiss, chairman of the House Subcommittee on Human Resources and Intergovernmental Relations, who has investigated the Administration's statements.

Alixe Glen, a spokeswoman for Health and Human Services, said "Our commitment to establish a fetal tissue bank is totally supported by medical experts who confirm that this bank would provide sufficient tissue to meet research needs."

She added that the Federal Government was exploring areas in addition to current, privately financed fetal tissue research. "We are doing a lot of other promising research in Parkinson's, Alzheimer's and diabetes, but opponents have tried to frame the debate as though, without research from induced-abortion fetuses, cures for these diseases will never be realized," she said. "Not true."

"One thing lost during this debate," Ms. Glen said, "is the extension of appropriations and budget authority for N.I.H. is being held up with these political shenanigans."

Paradoxically, the Administration's tissue-bank proposal may be turned into a vehicle to overturn the fetal-tissue ban. Representative Henry A. Waxman, Democrat of California, chairman of the House Subcommittee on Health and the Environment, has introduced an amendment to the N.I.H. reauthorization bill that is expected to come up for a vote in the House by the end of August.

It would continue the ban on Federal financing of fetal-tissue research and proceed with the tissue bank, but if the bank did not produce all the tissue needed for research within one year, scientists would be permitted to use tissue from induced abortions. Scientists would be required, however, to go to the tissue bank first and to use all the tissue obtainable there before going to induced abortions.

Ms. Glen said: "Mr. Waxman is trying to circumvent our good-faith commitment to the tissue bank. His one-year deadline has absolutely no scientific basis whatsoever. This measure does not represent a compromise but an attempt to promote Federal funding for abortion research."

LINKS BETWEEN CONGRESS AND THE OFFICE OF SECRETARY OF THE NAVY

Mr. BYRD. Mr. President, a recent issue of Roll Call carried a comprehensive letter from Dr. R. Krasner concerning the ongoing relationships that have existed between the Senate and House of Representatives and the Office of Secretary of the Navy. I commend Dr. Krasner for taking the time to compose this thorough account of those who have served both in Congress and in the Office of Secretary of the Navy. Our colleagues will note that the letter particularly calls attention to the prior service of both Senator JOHN WARNER from Virginia and Senator JOHN CHAFEE from Rhode Island in recent years as Secretaries of the Navy.

In the interest of furthering our sense of history concerning this repeated feature of congressional history, I ask unanimous consent that Dr. Krasner's letter, "Navy Secretaries," as published in Roll Call, be included in the RECORD.

[From the Roll Call, July 16, 1992]

NAVY SECRETARIES

To the Editor:

In the Q&A section of your July 9 issue, your reader asked about the last Member of Congress to serve as Secretary of the Navy. You noted that Sen. John Warner (R–Va) was a Secretary of the Navy prior to moving to the Senate. There is a long tradition of moving both ways.

Thomas Jefferson reputedly preferred Sen. Samuel Smith of Maryland for the position of the nation's second Secretary of the Navy, but subsequently nominated the Senator's brother when the former declined the post, although Sen. Smith did serve temporarily until his brother could assume the responsibility.

William Jones, our nation's fourth Secretary of the Navy, who previously had served as a Republican Member of Congress, had the distinction of serving simultaneously as Secretary of the Navy and Secretary of the Treasury from May 1813 to February 1814. He reportedly cited exhaustion as a reason for his resignation.

His successor, Benjamin Crowninshield from Massachusetts, represented that state in the House after his own resignation as Secretary of the Navy. Samuel Lewis Southard from New Jersey, the son of a Congressman, served in the Senate (1821–1823) while his father was in the House and then became Secretary of the Navy in 1823.

He was later elected governor of New Jersey but resigned to return to the Senate and was eventually elected as President Pro Tem in 1841. When Tyler became president he became acting vice president of the United States.

John Branch, who served as Secretary of the Navy from March 1829 until May 1831, served as both governor and Senator from North Carolina. He was succeeded by Levi Woodbury, who is best remembered in Navy circles as the man responsible for abolishing the daily grog ration.

In 1834, Woodbury was appointed Secretary of the Treasury by President Jackson after the Senate refused to confirm Roger B. Taney. Ironically, Woodbury was appointed to the Supreme Court in 1845 and Taney was appointed Chief Justice in 1836.

Mahlon Dickerson was appointed Secretary of the Navy in 1834 at age 64 after an already long public career as governor of New Jersey and US Senator. He was succeeded by James Kirke Paulding, who may be best known for having been recommended for the position by the author Washington Irving after Irving declined it. He was followed by George E. Badger, who subsequently went on to represent North Carolina in the Senate.

The most tragic figure to go from the halls of Congress to the position of Secretary of the Navy had to be Thomas Walker Gilmer, who served only from Feb. 19 to Feb. 28, 1844.

President Tyler nominated Gilmer of Virginia to the post, and the candidate was confirmed the next day. Gilmer, Secretary of State Abel Upshur, and David Gardiner (the father of the President's fiancee) were killed, and Sen. Thomas Hart Benton and members of the Cabinet, Congress and the diplomatic corps were wounded when a demonstration of the new "Peacemaker" gun went awry during a celebration cruise to Mount Vernon on the Navy sloop Princeton.

Several subsequent Navy Secretaries had Congressional service, including John Young Mason, William Ballard Preston, and Claude Augustus Swanson of Virginia, and John Pendleton Kennedy of Maryland.

Former Secretary of the Navy William Alexander Graham was elected to the Senate from North Carolina after the Civil War, but was not allowed to take his seat by the Radical Republicans in control of Washington.

James Cochrane Dobbin, a former House Member from North Carolina, was Navy Secretary when an Assistant Surgeon named Squibb at the Brooklyn Navy Yard Hospital asked that his pay be increased because of his responsibilities and achievements for the Navy.

Although he had the strong support of his superiors, Squibb's request was denied, and he resigned to form E.R. Squibb and Sons. One of his descendants was former Sen. (now Gov.) Lowell Weicker (R-Conn), and a picture of Squibb used to hang in the Senator's Capitol hideaway.

Isaac Toucey represented Connecticut in the House before being elected governor of the state in 1846. He was defeated for reelection but appointed Attorney General by President Polk in 1848. He was elected to the

Senate in 1852, where he served until his appointment to the Navy post.

Subsequent Navy Secretary George M. Robeson represented New Jersey in Congress; Richard W. Thompson, Indiana; William E. Chandler, New Hampshire; Hilary A. Herbert, Alabama; John Davis Long, Massachusetts; Truman H. Newberry and Edwin Denby, Michigan.

William H. Moody had a fascinating career. As a district attorney he served as the prosecuting attorney in the 1893 Lizzie Borden trial and then was elected to the 54th Congress. He was subsequently chosen by Theodore Roosevelt as his Secretary of the Navy. After his tenure in that position, he was appointed Attorney General and in 1906 nominated to the Supreme Court.

Since the middle of this century, Navy Secretaries have tended to come from private industry or through the ranks of the executive branch. But, even in recent times, as noted in your response to the question, Secretaries of the Navy have gone on to become Members of Congress, most notably two sitting Senators, John Chafee (R-RI) and Warner.

R. KRASNER

WASHINGTON, DC.

Mr. HOLLINGS. Mr. President, what is the pending business?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

The PRESIDING OFFICER. The Senate will now proceed to the consideration of S. 3026, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3026) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I want to specifically acknowledge the tremendous contribution over the past 12 years the distinguished Senator from New Hampshire has made to this particular process. He came as a former attorney general. He had a tremendous interest in law enforcement. He is brilliant with respect to our defense needs, security needs of our country with respect to the Commerce and State Departments foreign policy provisions.

He has been most supportive and he always has been on the side of economy in Government. We have all known how over the years we have worked on Gramm-Rudman-Hollings and deficit reduction. But, that is not the only area. We worked on this particular bill—the Commerce, Justice, and State—throughout the last 12 years. I want to, once again, thank him for his dedication and his commitment, his brilliance and untiring work to provide for the needs of Government within the confines of fiscal restraint.

I will elaborate further with respect to the Senator from New Hampshire again at an appropriate time.

Overall, Mr. President, the funding is at $22.9 billion in discretionary budget authority, with total appropriations of $16 billion allocated caps for domestic, international, and defense programs.

Mr. President, in highlighting it, let me state that as we launched upon this particular assignment, we realized in the very first instance we were $360 million below last year's budget in current policy. In other words, you take this year's budget, extend it to 1993 with inflation, and we have $360 million in outlays we have to immediately start cutting.

If we look at the President's request, we are below the President's request to the tune of some $900 million in outlays and then it might be well noted in the record at this particular point, because I understand there are some amendments, colleagues should get a feel for the dilemma in which the staff and Senators on the subcommittee and full Appropriations Committee find themselves. We literally had over 635 individual senatorial requests submitted to the tune of in excess of $8.5 billion in add-ons.

Now, I do not know where they got the idea we had any such appropriating in mind. They should remember that when they introduce their particular amendments.

We brought this bill under our 602(b) allocation by various cuts. We cut $62.6 million from the polar-next satellite program. We cut $72 million from overtime payment for agents in the FBI and DEA for exercising 3 hours a week. We cut $31 million from the State Department for their foreign national employee pay raises and lavish entertainment expenses, and on down the list.

Mr. President, we gave priorities to five areas: the Justice Department's law enforcement programs, continuing efforts to enhance the Nation's premier research and development organization, the National Institute of Standards and Technology, maintaining and modernizing the National Weather Service, overseas trade and competitiveness programs, and of course the defense economic conversion programs that have been submitted on both sides of the aisle.

It should be noted that the Justice Department's budget in the past 5 years has been veritably doubled. Congress and the executive branch have put a particular emphasis on law enforcement, and we have an increase of some $757.9 million or 8.7 percent in the Justice Department.

With respect to the Bureau of Prisons, we increased there some $409.3 million for new construction projects, new prisons. We are building more prisons than we are schools in this country, sad to say.

We put in an increase of $34 million for the Drug Enforcement Administration and also an additional $31 million to build a new DEA and FBI training center at Quantico, VA. We increased the Department of Justice for the hiring of some 261 additional U.S. attorneys for the prosecution of violent and white-collar criminals. There was an increase there of $87.1 million. There was an increase of $13.4 million for the prosecution of health fraud, an increase of $18.3 million for the prosecution of financial institution fraud, and of course we allocated $173.7 million for the payment of claims under the newly created Radiation Exposure Compensation Act.

There was also a $697.7 million appropriation for the grant programs to assist State and local jurisdictions. That was $79.2 million above the President's request, and we rejected the President's elimination of the juvenile justice and delinquency prevention grants to the States.

In commerce, we had an increase of $350 million to the National Institutes of Standards and Technology. That is $200 million in the main there for a new construction account to be rebuilding the National Institutes of Standards and Technology equipment and facilities at Gaithersburg and Boulder. They have been allowed to decline over the years and not given the real attention they deserve. And as we move into technological competitiveness, we have to refurbish these particular facilities.

There is $186 million provided in the National Institute of Standards and Technology advanced technology and manufacturing technology center programs, and $109 million of this is provided for the economic conversion initiative.

With respect to the National Weather Service, there is an increase of $54.6 million over this year's level to maintain the weather stations across the country at current operations, and there is the amount of $177 million—these things cost money—for the Nexrad tornado-detecting Doppler radar and the other technologies used in that weather service.

That is a big hunk of that Commerce budget, but we have to move forward with these advancements in technology with respect to the weather service.

There is an increase of $5.1 million for the International Trade Administration's Import Administration, and the administration finally recognized in the minivan dumping case a dumping violation, and they have just been rejecting all the petitions out of hand. Perhaps we can move now to create a competitive trade policy with the enforcement of our dumping laws that are already on the statute books.

The steel industry and others are coming in now with their particular petitions, and there is a logjam that must be cleared, so we appropriated the $5.1 million additional there.

There is $35 million for the NOAA fleet modernization including $22 million to convert a Navy oceanographic ship. There is a $7 million increase for the Foreign Commercial Service to open up the new post in the former Soviet Union.

In the Judiciary, there was an increase of $108 million for the Supreme Court and the article 3 judges.

With respect to the Department of State, there is actually $30.1 million less in the overall budget and we limited domestic representation expenses. We provide $140 million, however, for the building of the Moscow Embassy in pursuance of the administration's agreement with Boris Yeltsin on his recent visit here to Washington, specifically reaffirming what has been in the Freedom Support Act bill, namely, that the Russians shall have access to the embassy at Mount Alto. The State Department wanted to make sure that particular language was in this particular bill.

There is a new account of $25 million to establish the diplomatic post in the new republic of the former Soviet Union: $20 million for climate and global change research; as a result of the President's visit down to the United Nations Conference in Rio, a $30 million increase in the USIA Fulbright Exchange Program. We had very excellent requests from several of the colleagues for several student exchange programs.

In large measure, the subcommittee that is working directly in this particular field understands that we have—not been negligent but we have not been funding the Fulbright Program as high as it should be, the flagship exchange program. So we tried to bring that back up to where it should be, not quite where we would like it, but rather than a proliferation of every Senator having his own exchange program, let us go and support the Fulbright Program which is, tried and true, proven, and finance it the best we can.

With respect to the U.N. peacekeeping, there is an increase of $83.1 million for a total of $460.3 million for the matter of U.N. peacekeeping.

There is a provision in here of $229 million under our 050 allocation, for defense economic conversion; $80 million of it is put in for EDA grants and the defense conversion account, but only upon approval of the Secretary of Defense certification on a case-by-case basis.

There is $80 million in the EDA grants, $40 million for subsidized, $735 million in SBA loan guarantees, and there are other matters in here that need to be highlighted.

OVERALL FUNDING AND CONSTRAINTS

Mr. President, this appropriations bill provides for $22.9 billion in discretionary budget authority. The new outlays in fiscal year 1993 associated with these appropriations total $16 billion. This bill is at our 602(b) allocation caps for domestic, international, and defense programs.

This has been a tough year, and it has been quite difficult to fashion a bill within the tight domestic 602(b) allocation. It has given new meaning to the phrase "just say no." The allocation available for this bill for new domestic program outlays is $11.2 billion. That is over $900 million in outlays below the President's request and $360 million below the CBO estimate of the cost just to maintain current programs.

There are a lot of reductions in this bill, for those who stand on the floor and say they want to cut Federal spending—then here is a bill that does just that. A lot of domestic agencies will receive funding below the currently enacted level. There is going to have to be a lot of belt tightening as agencies absorb increases for must-pay bills such as pay raises and GSA rent increases. But, it is time for a lot of folks downtown and up here on the Hill to realize that we cannot continue business as usual.

The bill proposes to terminate or significantly reduce several programs. And, the bill does not include any small business or economic development administration earmarks for university research or special grant projects.

We have had our committee staff ferret into these agency budgets and make old-fashioned budget cuts. We cut $62.6 million by stopping the NOAA Polar-Next Satellite Program. In the process we have given the American people a program that is more reliable and saved them millions. We have cut $72 million from the FBI and DEA for overtime pay which they were providing to agents for exercising 3 hours a week. We cut $31 million from the State Department for foreign national employee pay raises and for their lavish entertainment expenses.

In putting together the bill, the committee rejected taking an everyone gets their fair share approach. That would have been the easy way out. But, it would have been mindless and it would have devastated a lot of essential government programs. Instead, we have done our job and made tough choices.

The committee assigned priority to five areas: First, the Justice Department's law enforcement programs; second, continuing efforts to enhance the Nation's premier research and development organization—the National Institute of Standards and Technology; third, maintaining and modernizing the National Weather Service in support of its mission to protect the life and safety of Americans; fourth, overseas trade and competitiveness programs; and fifth, defense economic conversion.

JUSTICE

I have been one of the Justice Department's chief proponents since coming to the Senate 25 years ago * * * and I am not about to stop being a proponent for justice now. Since I took over this bill in 1987, the Justice Department's budget has doubled. And even in light of this year's budget constraints, this bill makes the necessary tradeoffs to provide the Justice Department with a $757.9 million increase in discretionary appropriations or 8.7 percent above this year.

It is just fine for the Senate to worry about peacekeeping in Cambodia and Yugoslavia. But it is about time to start worrying about peacekeeping here at home in America. People downtown need to start understanding that when I say I am concerned about the crime situation in Columbia, I do not mean a country in South America.

OUR RECOMMENDATIONS INCLUDE THE FOLLOWING HIGHLIGHTS

JUSTICE

The sum of $2.071 billion for the FBI, an increase of $145.3 million or 7 percent over this year's level. We have fully funded their program increases for 210 more agents and anticrime initiatives—such as addressing the Asian organized crime threat.

The sum of $2.166 billion for the Bureau of Prisons, an increase of $105.3 million over this year's level. We have included $409.3 million for new construction projects—$70 million more than the President's budget request.

The sum of $750.7 million, an increase of $34 million to fully fund the Drug Enforcement Administration. And, an additional $31.1 million has been provided to build a new DEA and FBI training center at Quantico, VA.

The sum of $807.8 million, an increase of $87.1 million, for the U.S. attorneys. This will enable the hiring of 261 additional assistant U.S. attorneys to investigate and prosecute violent and white collar criminals.

The sum of $57.3 million, an increase of $13.4 million to fully fund an initiative to investigate and prosecute health care fraud.

The sum of $278.5 million, A $18.3 million increase, to investigate and prosecute financial institution fraud.

The sum of $173.7 million to fully support payment of claims under the newly created Radiation Exposure Compensation Act.

The sum of $697.7 million for Justice grant programs to assist State and local jurisdictions in the war on crime—the recommendation is $79.2 million above the President's budget request, and rejects the proposed elimination of juvenile justice and delinquency prevention grants to States.

COMMERCE

The sum of $597 million for the National Institute of Standards and Technology, an increase of $350 million. Included is $200 million for a new construction account to begin rebuilding NIST's equipment and facilities and ensuring that the agency can continue to conduct cutting edge scientific advances.

Included is $186 million for NIST Advanced Technology and Manufacturing Technology Center programs; $109 million is provided under the committee's economic conversion initiative.

The sum of $401.8 million for the operations and staffing of the National Weather Service, which is $54.6 million more than this year's level. This will enable the National Weather Service to maintain stations across the country at current operations and staffing.

The sum of $177 million is provided for acquisition of NEXRAD tornado detecting Doppler radar, facilities and other technologies needed to modernize the National Weather Service so it can continue to issue warnings to protect Americans from severe weather.

The sum of $27.9 million is provided for the Import Administration, an increase of $5.1 million, to ensure the agency reduces its backlog of antidumping and countervailing duty investigations—and to put some teeth into our trade laws.

A cut of $62.6 million from the budget for the ill-conceived Polar-NEXT Satellite Program.

The sum of $37 million, an increase of $35 million above the budget to maintain the NOAA Fleet Modernization Program—an initiative this subcommittee started last year. $22 million is included to convert a Navy oceanographic ship for use by NOAA.

An increase of $7 million is provided for the United States and Foreign Commercial Service to open new posts in the former Soviet Union.

THE JUDICIARY

The sum of $2.102 billion is recommended for the judiciary, an increase of $108 million or 4.6 percent above this year's level. We have fully funded the requested increases for the Supreme Court, and increases for the salaries of article III judges.

STATE AND INTERNATIONAL PROGRAMS

We have recommended $2.102 billion for State Department operations, a cut of $30.1 million. And we have limited domestic representation expenses to $1 million. They were having a great time at Foggy Bottom having Ridgewell-catered parties.

The recommendation provides $140 million to support the budget request to complete the new secure building at the Moscow Embassy. The administration has agreed to let the Russians occupy their Embassy at Mount Alto—but we are still stuck with an unfinished, and thoroughly bugged Embassy in Russia.

Provides $25 million for a new account to help cover State Department and USIA shortfalls in establishing diplomatic posts in the New Republics of the former Soviet Union—or Commonwealth of Independent States—or whatever their name is this week.

The recommendation restores funding for the State Department Environmental Grant Program established last year and recommends an appropriation of $30 million; $20 million of this amount is for climate and global change research—the need for which was highlighted during the President's recent trip to the U.N. conference in Rio de Janeiro.

The sum of $125 million, an increase of $30 million above the budget request for USIA's Fulbright Exchange Program. This will restore scholarships for students, and will enable Fulbright scholars to be sent to new republics such as Ukraine and Kazakhstan. For the past few years Congress has been creating new exchange programs at the expense of the Fulbright. Our recommendation seeks to restore it to its status as our flagship exchange program.

Finally, we have included the administration's full request for U.S. Peacekeeping—$460.3 million or $83.1 million above the level appropriated by both this bill and the foreign operations bill in fiscal year 1992.

ECONOMIC CONVERSION INITIATIVE

Since 1985, defense procurement has declined in constant dollars from $127 billion to $54 billion. It is estimated that 1.4 million defense-related jobs will be lost by the mid-1990's. And military end-strength is forecast to fall by another half a million soldiers, airmen, marines, and sailors.

The impact on businesses and communities, like Myrtle Beach, is devastating. And, there has been a lot of talk by congressional task forces and even in the budget resolution, of what needs to be done to help industries to convert, individuals to transition, and communities to adjust. The programs that everyone points to—EDA, SBA, and NIST—are all under this subcommittee's jurisdiction.

The subcommittee has put together a $229 million package from our 050, National defense allocation, for defense economic conversion. In each case, the special appropriations are worded to ensure that the funds are only used to address valid defense impacts. For example, the $80 million put in the EDA defense conversion account is only available if Dick Cheney's Office of Economic Adjustment certifies on a case-by-case basis that the funds are required.

Specifically, we have recommended the following:

The sum of $80 million in EDA grants to assist communities with planning and infrastructure projects;

The sum of $40 million to subsidize $735 million in SBA loan guarantees for loans to businesses hurt by cutbacks in secondary defense contracts and for loans to help members of the Armed Forces to establish small businesses.

The sum of $109 million for NIST advanced technology grants to help the defense industry develop new nonmilitary technologies and for manufacturing centers to help regions and communities reduce their dependence on defense manufacturing.

WHY A SENATE-ORIGINATED BILL?

Members will notice that we are considering a Senate-originated bill. We are taking this action because I feel strongly that we have to get on with the business of governing and get these appropriations bills finished. Under the U.C. agreement by which we are operating, our action on this bill will be incorporated as amendments to the House companion measure, H.R. 5678.

My House colleagues have delayed for over a month because of the reductions that must be required under such low allocations. They are finally moving now, partly because we did not wait any longer. If we did not bring this bill to the floor now, we would not be able to proceed until well into September. With this being a Presidential election year—there are not many work days before the end of the 102d Congress.

We intend to bring back a conference report, hopefully before the Republican Convention. I want to dispel the inside-the-Beltway pundits who say that appropriations will be on a continuing resolution.

Let me say this before yielding to my distinguished ranking member.

RECOGNITION OF STAFF

I want to recognize, Mr. President, the staff who have worked so hard on this bill. Our minority staff, John Shank and Santel Manos; and on the majority side, Liz Blevins, Dorothy Seder, Jolene Lauria Sullens, and my subcommittee director, Mr. Scott Gudes, have all done an outstanding job.

The full committee staff worked hard on a day-to-day basis and enable not only the Commerce, Justice and State Subcommittee, but all appropriations subcommittees to get their bills through committees and to the Senate.

Bob Putnam, Jodi Capps, and our "one-man congressional budget office," Mr. Jack Conway deserve special recognition.

The executive branch has many programs to recognize its civil servants for performance. Here in the Senate we do not. We always wait until the end, and then in a rush of our colleagues to a final vote, they do not want to hear about anybody or anything. They want to vote and go home or whatever.

I want to recognize, in the first instance, that our appropriations committee staff members worked day in and day out, often on weekends and into the early hours of the morning. The executive branch has thousands of

budget personnel proposing to spend money for the agencies and programs in this bill. We have but a handful.

Our staff are true professionals. They take personal pride in the technical accuracy of the bills and reports that our committee produces. And when they are not assisting with hearings or attending meetings, they are digging; they are digging into programs and budgets, forcing the executive branch to justify its budget estimates and how it is using past years' appropriations.

In this budget environment we ask them continuously—Senator RUDMAN and I both—to go back and try harder to find a way to bring in bills that are within these tight budget allocations. The roles of the staff are very important to the daily working of the U.S. Senate.

I remember when our distinguished former colleague, Senator John Stennis, retired, he attributed his successful career in main to good staff work.

While we do not have the programs that the executive branch does, it should not stop us from recognizing the people who support us. So I simply would like to note that our Appropriations Committee staff are true public servants in every sense of the word, and they are a credit to our committee. I particularly emphasize this with respect to our chairman of our committee, the Honorable ROBERT BYRD of West Virginia, and his chief of staff, director, Mr. Jim English. And our distinguished ranking minority member Senator HATFIELD, and the minority staff directors, Mr. Keith Kennedy.

I have some unanimous-consent requests but I will withhold, yielding to my distinguished ranking member.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, first I want to thank my friend from South Carolina, the chairman of this subcommittee, for his gracious remarks. This is the 12th year that I will come to the floor in some way connected with this bill, but actually it is the 8th or 9th year that I have managed this bill either as chairman or as ranking member.

I echo Senator HOLLINGS' remarks concerning our staff. But I want to simply address to him through the Chair my appreciation of the fact that he has been unfailingly cooperative and courteous, whether he was the chairman or the ranking member in this committee which deals with core programs of this Government of extraordinary importance, and he has never become bogged down in some partisan bickering that so often, in my view, slows down the work of this body.

So I want to thank him for that.

Mr. President, I join the Senator from South Carolina in presenting the recommendations of the Appropriations Committee for fiscal year 1993 for the Departments of Commerce, Justice, and State, the judiciary and related agencies. It is important to note at the outset that the section 602(b) allocation for the subcommittee is $865 million in outlays below the request of the administration. The subcommittee was faced with attempting to respond to the important increases requested for the Justice Department and the Judiciary while at the same time restoring funding for programs of congressional priority.

The allocation available to the subcommittee is not only below the level proposed by the administration, it is approximately 2 percent below the CBO baseline; therefore any increases above that level for individual programs and agencies result in further reductions below baseline funding—and in many cases below the enacted level—for other programs.

The committee approach has been to fund the core functions of government—the administration of justice and the protection of public safety—at the highest levels possible. As an even more dramatic illustration of the emphasis on law enforcement, approximately 82 percent of the new domestic discretionary outlays contained in these recommendations are generated by the Justice Department and the judiciary.

Total discretionary resources available to the Department of Justice would increase by $757.9 million, or over 9 percent, above the 1992 enacted level. The increase for the judiciary is almost $108 million, or 4.6 percent. Total budget authority for the judiciary has increased $745 million, or 44 percent, since fiscal year 1990.

The emphasis on law enforcement and the judiciary is nothing new for the subcommittee. Appropriations for the Justice Department totaled $2.45 billion when I became a Member of the Senate in 1981; the total recommendation for fiscal year 1993 is $9.8 billion. That represents an increase of 400 percent in 12 years.

Funding for the judiciary was $652.5 million when I arrived in 1981; the total recommended in this bill is $2.45 billion, an increase of 375 percent in 12 years.

The recommendations in this bill also provide important funding for the National Weather Service. The full budget request of $129.6 million is provided for the weather service modernization program, including the procurement of the new next general Doppler weather radars. In addition, $55 million of the $60 million increase in weather service operations is provided. This will avoid weather station closures and service reductions.

The bill also provides for important initiatives in trade and research and development. The full budget request for the International Trade Administration is provided, as well as a $7 million enhancement to open offices of the Foreign Commercial Service in the new republics of the former Soviet Union. In addition, the requested increase of $5.1 million has been provided to reduce the backlog of antidumping and countervailing duty investigations at the Department of Commerce. Finally, a $200 million construction and renovation program has been included for the laboratories and research facilities of the National Institute of Standards and Technology in Gaithersburg, MD, and Boulder, CO.

Within the subcommittee's defense allocation, we've included an economic conversion program to assist members of the Armed Forces and defense industries in the transition from military to civilian employment and manufacturing. Based on recommendations contained in the Republican task force on defense conversion, which I chaired, and on the recommendations of a Democratic task force chaired by Senator PRYOR, funds are provided through the programs of the Economic Development Administration, the National Institute of Standards and Technology, and the Small Business Administration.

Within the allocation for international programs, the bill provides for the full 1993 request for peacekeeping operations. In addition, funds have been provided to the Department of State and the United States Information Agency to open new posts in the Confederation of Independent States. The committee has not funded new educational exchange programs which have yet to be authorized, but has provided an enhancement of $30 million for the Nation's premier international education program, the J. William Fulbright exchanges. This will allow the Fulbright program to expand operations to the new republics of the former Soviet Union.

In conclusion I should make clear that, given the subcommittee's allocation and the shortage of funding for domestic discretionary spending in general, many of the agencies and programs in this bill are funded at a freeze level, or are reduced from the current year's level. This will cause problems for many of them, but it is the inevitable result of trying to balance the budget on discretionary spending alone.

Finally, I would like to thank my chairman, FRITZ HOLLINGS, for his leadership and cooperation. Since 1984 I have served as either the acting chairman, chairman, or ranking minority member of the subcommittee. It has been my privilege and pleasure throughout that period to have at my side the Senator from South Carolina.

Mr. President, Senator HOLLINGS and I are here to do business, and we would welcome anyone who has an amendment to come to the floor. Hopefully we can wrap up this legislation before

this evening and allow the Senate to move on to another appropriations bill.

Mr. President, I would simply echo some of the things that Senator HOLLINGS said, and I will be brief. First, what we have attempted to do, and I believe we have done with this bill, is to fund the core programs that involve public health, public safety, and defense that are charged to this subcommittee. There are things that we would have liked to have done that we are unable to do. This, of course, comes about because we have been trying now with little success for 8 years to bring this budget into balance on the back of the discretionary programs alone. That cannot be done. It is mathematically impossible. And the sooner the people recognize that, the sooner we will have a serious opportunity to address the size of these deficits.

It is interesting to look at the demands that have been put on this committee by the increase in crime, drug activity, and the incarceration of Federal prisoners over the last 10 years.

I point out a very interesting statistic. Appropriations in 1981 for the Justice Department totaled $2.45 billion. This year that number is $9.8 billion, an increase of 400 percent in 12 years. If that does not say something about the problems in our society, nothing does. That is an enormous amount of money to be spent on something which is essentially nonproductive.

Where this country will go with these problems of crime and drugs, I do not know. But I know this: simply spending money on more prisons, more FBI agents, more DEA agents, more drug interdiction, is not the solution. Somebody will be standing here 12 years hence and will have a Department of Justice budget which will then be $20 billion or up 800 percent from 1981. That is the trend. None of the things that have been tried so far have truly worked.

Finally, I want to say this: I hope that our colleagues who are interested in offering amendments would come to the floor forthwith and do it. This legislation before the Senate has been in preparation since last January. We have done it carefully, but obviously there are those who will disagree with parts of it. That is fine. I hope that we are not standing here at 8 or 9 o'clock tonight waiting for people to offer amendments.

The Senate has a lot of things to do between now and the time we recess. This bill, with its amendments, ought to be finished by 6 o'clock tonight. We ought to debate any amendments, vote on them, and get on with our business. If we go into the late hours or early morning hours of tomorrow, it seems to me we are not doing our job.

So I understand from the staff that there are probably three or four people out there that have some amendments. With all due respect to time, I hope they will come to the floor and offer them now.

I thank the Chair.

Mr. HOLLINGS. Mr. President, I, too, join in the distinguished Senator's request. We are not going to sit here and dilly all day long, having quorum calls, and then start business up at 5 or 6 o'clock this afternoon. I do not mind calling for third reading, and I put everybody on notice that we are not trying to rush the bill. This bill is printed. You can see it here.

I have had the Senators who are interested, as the Senator from New Hampshire indicated, talk to me about their amendments.

Let me note one concern of my ranking member on our authorizing committee, the distinguished Senator from Missouri [Mr. DANFORTH]. He has a grave concern relative to FCC language. Senator RUDMAN and myself have agreed with him.

We will go forward on this particular bill. They are negotiating, the two staffs, along with each other, and Senator DANFORTH is not losing any right whatsoever to raise what point he may wish to raise, or what amendment he might wish to offer, or what objection he might wish to make. He will be notified before we move on any kind of consent, relative to that language.

PRIVILEGE OF THE FLOOR

Mr. HOLLINGS. We worked with the colleagues, and in that light, I do have some unanimous-consent requests here that have been cleared on both sides of the aisle.

I ask unanimous consent that Jolene Lauria Sullens, of our staff, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2745

Mr. HOLLINGS. Mr. President, there are several accounts in which the House bill and the bill before us are very close, and a minor change would bring the two bills into agreement. So the following changes should be made in the Senate bill with respect to eight amendments.

I ask unanimous consent that we amend our bill here for the Fishing Vessel and Gear Damage Fund. On page 50, line 3, strike the sum of $1.281 million and insert in lieu thereof $1.306 million.

For the Fishermen's Contingency Fund, on page 50, line 8, strike the sum of $1 million and insert in lieu thereof $1.025 million.

Three, for the Foreign Fishing Observer Fund, on page 50, line 20, strike the sum of $571,000 and insert in lieu thereof $565,000.

Four, for the Commission of Agricultural Workers, on page 73, line 5, strike the sum of $585,000 and insert in lieu thereof $578,000.

Five, for the Department of State, Salaries and Expenses, on page 78, line 16, after the word "amended," delete the following, in parentheses "(22 U.S.C. 2669)."

Six, for the Repatriation Loans Program Account, on page 82, line 2, strike the sum of $1 million and insert in lieu thereof $624,000.

Seven, for the American Sections, International Commissions, on page 85, line 14, strike the sum $4.410 million and insert in lieu thereof $4.403 million.

Eight, for the Russian, Eurasian, and East European Research and Training Program, on page 86, line 17, strike the sum of $4.784 million and insert in lieu thereof $4.961 million.

I send the amendments, en bloc, to the desk and ask for their immediate consideration.

There are actually eight amendments. They have all been cleared on both sides.

Mr. RUDMAN. Yes.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 2745.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

For the Fishing Vessel and Gear Damage Fund—

On page 50, line 3, strike the sum "$1,281,000," and insert in lieu "$1,306,000".

For the Fisherman's Contingency Fund—

On page 50, line 8, strike the sum "$1,000,000," and insert in lieu "$1,025,000".

For the Foreign Fishing Observer Fund—

On page 50, line 20, strike the sum "$571,000," and insert in lieu "$565,000".

For the Commission on Agricultural Workers—

On page 73, line 5, strike the sum "$585,000," and insert in lieu "$578,000".

For the Department of State, Salaries and Expenses—

On page 78, line 16, after the "amended" delete the following: "(22 U.S.C. 2669)".

For the Repatriation Loans Program Account—

On page 82, line 2, strike the sum "$1,000,000," and insert in lieu "$624,000".

For the American Sections, International Commissions—

On page 85, line 14, strike the sum "$4,410,000," and insert in lieu "$4,403,000".

For Russian, Eurasian, and East European Research and Training Program—

On page 86, line 17, strike the sum "$4,784,000," and insert in lieu "$4,961,000".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2745) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2746

(Purpose: To provide for land transfers to support National Oceanic and Atmospheric Administration programs)

Mr. HOLLINGS. Mr. President, on behalf of Senators REID, BRYAN, INOUYE, and AKAKA, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself, Mr. BRYAN, Mr. REID, Mr. INOUYE, and Mr. AKAKA, proposes an amendment numbered 2746.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 63, line 10, strike from "Sec. 206." through to and including "Louisiana." on line 13 and insert in lieu thereof the following:

SEC. 206A. The Under Secretary of Oceans and Atmosphere is authorized to construct a building, on approximately 15 acres of land to be leased for a 99-year term from the University of Southwestern Louisiana.

SEC. 206B. (a) The Under Secretary of Oceans and Atmosphere is authorized—

(1) to construct, on approximately 10 acres of land to be leased from the University of Nevada System, Desert Research Institute, or

(2) in the alternative, to acquire by lease construction on such land, with a lease term of up to 30 years, a Weather Forecast Office, upper air facility, regional climate center, and associated instruments and site improvements as a part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the Reno, Nevada, area.

(b) The Under Secretary is authorized to reimburse the Desert Research Institute for the cost of providing utilities and access to the site.

(c) The Under Secretary is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

SEC. 206C. (a)(1) The Under Secretary of Oceans and Atmosphere is authorized to lease building and associated space from the University of Hawaii, Honolulu, for the operation of a weather Forecast Office, as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization program for the State of Hawaii, for a term of up to 20 years.

(2) Rental costs for the space leased under paragraph (1) shall not exceed fair rental value as established by governmental appraisal.

(b) The Under Secretary is authorized to expend funds to make all necessary alterations to the space to allow for operation of a Weather Forecast Office.

(c) The Under Secretary is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

Mr. HOLLINGS. Mr. President, as I have indicated, this is on behalf of these Senators. It has been cleared on both sides of the aisle.

I urge adoption of the amendment.

NOAA ENVIRONMENTAL RESEARCH LABORATORIES

• Mr. WIRTH. Mr. President, I would like to engage in a brief colloquy with my friend, the distinguished chairman of the Subcommittee on Commerce, Justice, State, and Judiciary; Senator HOLLINGS. First, let me acknowledge my understanding of the very demanding circumstances that the chairman faces in this year of very tight budgetary constraints. He has done a difficult job well and let me assure him that I am well aware of the tough nature of the issues he must face in moving this bill forward.

With his indulgence, I would like to briefly discuss three programs of importance to the Nation operated by the National Oceanic and Atmospheric Administration's Environmental Research Laboratories in Boulder, CO. These are the PROFS Program, the Wind Profiler Program, and the Solar-Terrestrial Services Program.

PROFS is the backbone of NOAA's effort to modernize its weather offices with current data processing and weather information analysis. This program has and continues to develop new techniques that have demonstrated significant improvements in severe weather forecasting and is critical to continued transfer of new observational technology and forecasting techniques to the National Weather Service. It is also essential that the PROFS technology demonstrated in the Denver area to provide block-by-block advanced warning for tornadoes and severe thunderstorms be expanded to reach people in all parts of the country.

The Wind Profiler Program produces 6-minute vertical profiles of winds that are used to improve weather forecasting and commercial aircraft routing. Preliminary results have demonstrated that the high resolution wind information can significantly improve 3- to 6-hour forecasts of storms and of potential wind shear, a known cause of aircraft crashes. These wind profiles are also used to increase fuel savings for aircraft due to more efficient routing.

Solar-Terrestrial Services provides this Nation's space environment forecasts and warnings for near-Earth particle and magnetic storms that can cause disruption of communications, electronic navigation, power distribution, and space operations. Improved forecasts will result in reduced potential for northern and northeastern electrical blackouts, and allow protective action to reduce damage to communications and navigation systems, and reduce potential for injury in manned space activities caused by solar activity.

The Federal Government has already made prudent investments in these programs. Unfortunately, the funding provided by the Appropriations Committee in this bill would significantly hamstring these programs, reducing their effectiveness. As these programs are extremely important to all citizens through the services they provide, I hope that the chairman will work with me to craft final legislation that more closely approaches the appropriation detailed by the House of Representatives concerning these programs.

Mr. HOLLINGS. I say to my good friend, the senior Senator from Colorado, that I am pleased that he recognizes the severe budget contraints that we must operate within. I, too, recognize the importance of the PROFS, Wind Profiler, and STS programs to Colorado, and to the Nation. The House of Representatives provided a higher level of funding for these programs than has the Senate. I look forward to working with my friend from Colorado and my colleagues in the House to address these programs in conference with the House. We will see what we can do.•

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2746) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I am ready to move forward with amendments to the particular bill. I talked with one of the colleagues earlier with respect to a cut, for example, of the administrative costs. Let me emphasize again, that is one of the reasons I thank our staff. They already cut them.

As you can well see, we have been into the administrative costs. We have cut those administrative costs, and we would be in a position of having to resist or oppose, because the assumption is that we are not taking these things step by step and looking into each one anew; that we are casually just taking the administrative officers of the various departments ipso facto, approving them, and moving to the operation side.

We look at every particular section, every general administration request; all the subcommittee chairmen have to do this. We all have 602(b) allocations substantially less than what we have hoped for. You can see at a glance, in my opening comment, that we got an allocation of $81½ billion less than what some colleagues are ready to vote for here. So we are holding the line here, and we are ready for amendments.

I think my colleague from Montana, Senator BAUCUS, has a statement he wishes to include in the RECORD at this time, while we are waiting for Senators to come to the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2747

(Purpose: To provide funds for the Commission on Immigration Reform and to offset such funds from the "Salaries and Expenses" account of the Immigration and Naturalization Service)

Mr. HOLLINGS. Mr. President, on behalf of Senator KENNEDY and Senator SIMPSON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. KENNEDY (for himself, and Mr. SIMPSON), proposes an amendment numbered 2747.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, line 4, strike out "$990,894,000" and insert in lieu thereof "$990,694,000".

On page 20, between lines 14 and 15, insert the following:

COMMISSION ON IMMIGRATION REFORM

For necessary expenses of the Commission on Immigration Reform pursuant to section 141(f) of the Immigration Act of 1990, $800,000.

Mr. HOLLINGS. Mr. President, this is a Kennedy-Simpson amendment for the Commission on Immigration Reform. The amendment appropriates $800,000 for the work of this important Commission.

The Commission was appointed earlier this year, a bipartisan group of eight Commissioners appointed by the Congress, and the Chairman, Cardinal Law, of Boston, appointed by the President.

The Commission has received no funding. It is within our 602(b) allocation and has been cleared on both sides of the aisle.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2747) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, while awaiting just a moment here, let me read the letter that we received from the Office of the Attorney General earlier this morning. It says to Senator RUDMAN and myself:

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, July 27, 1992.

Hon. ERNEST F. HOLLINGS,
Chairman, Subcommittee on the Departments of Commerce, Justice and State, the Judiciary and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you take the Commerce, Justice, State 1993 Appropriations Bill to the Senate floor, I urge you and your colleagues to provide no less than the amounts proposed in your Bill for the Department of Justice. I believe you and I agree that the Department of Justice provides, on behalf of all the American people, a core function of government.

Though the net change in total discretionary funding for the Department of Justice is some $257 million (or 2.67 percent) below the Administration's 1993 request, your Bill is some $820 million greater in net discretionary funding for the Department of Justice than the companion 1993 House Commerce, Justice, State Appropriations Bill reported by the full House Appropriations Committee.

I commend your leadership, and that of your Subcommittee colleagues, in focusing on the priority needed to be accorded the Department of Justice's program needs in areas such as violent crime, drug trafficking, and white collar crime in 1993. I also recognize, from a quick review of the Bill and accompanying Report, the difficult tradeoffs you made to provide the level of funding contained in the Bill for the Department of Justice.

I appreciate your support for the "Weed and Seed" initiative and the flexibility afforded me to execute this vital program. I am also heartened by your support across the criminal justice system for resources to support the investigative, prosecutive, incarceration, and State and local assistance programs of the Department in 1993.

You must know, however, that I am disappointed that for the second successive year the President's request for Department of Justice law enforcement initiatives are not fully funded. In major part, I understand this is caused by an inadequate 602(b) outlay allocation provided to your Subcommittee. This is a problem I hope we can jointly address in the coming year.

Once the Senate and House Bills pass the respective bodies, there are several serious non-appropriations matters, such as the reauthorization of the Legal Corporation contained in the bill, that we will need to resolve in conference.

In close, though your Bill does not provide all the funds needed, the Senate Bill is much preferred in its funding level for the Department of Justice compared to the companion House Bill. I urge you and your Subcommittee colleagues success in retaining no less than the amounts proposed for the Department of Justice both on the Senate floor and in the Conference Committee. I look forward to working with you in a continued spirit of trust, cooperation, and courtesy in the year ahead.

Sincerely,

WILLIAM P. BARR,
Attorney General.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2748

(Purposes: To ensure compliance with GAO requirements regarding the independent counsel)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 2748.

At the appropriate place, add the following:

SEC. . The General Accounting Office is hereby directed to report to Congress by September 1, 1992, their explanation for failing to comply with Public Law 100-202, and to complete by the adjournment of Congress sine die of the 102nd Congress, the reports required to be submitted pursuant to Public Law 100-202.

Mr. DOLE. Mr. President, as many of my colleagues know, I have not been a big fan of the Office of Independent Counsel. In far too many instances, the investigations conducted by independent counsels have turned out to be partisan political fishing expeditions—expeditions which accomplished nothing more than wasting millions—and I say millions of tax dollars.

The most egregious example of this is, of course, the never-ending Iran-Contra investigation being conducted by Lawrence Walsh. This December, Mr. Walsh will celebrate his sixth anniversary as independent counsel, the same as a term for Senator. He has been there 6 years.

And since Mr. Walsh spends most of his time in Oklahoma, leisurely working on his memoirs, while his crew of attorneys are ensconced in some of Washington's cushiest office space, all enjoying the luxury of operating with an unlimited budget, there is little hope that the end is in sight.

Why would you want to give it up? They have it made. They may be here longer than most anybody in the State.

My intention in offering this amendment, however, is not to send a message to Mr. Walsh—who has already proven his inability to understand the simple fact that it is time to leave Iran-Contra to the history books.

Rather, my intention is to send a message to the General Accounting Office.

I know that many Senators shared my fiscal accountability concerns when Congress established a permanent indefinite appropriation to fund the expenses of all independent counsels.

Therefore, in the DOJ Appropriations Act of 1988, a provision was adopted that required the Comptroller General to perform semi-annual financial reviews of independent counsel expenditures. These reviews were then to be provided to the House and Senate Appropriations Committee, so we could tell the taxpayers how many millions

of dollars we are spending on all of these things.

Unfortunately, as the GAO confirmed to my office this past week, no reviews have been provided to the House and Senate. No reviews have been provided to anyone. And the sad fact is that no reviews have ever been completed; not one review since 1988 by the Government Accounting Office, which is supposed to be the watchdog. They have not done one thing to see how many millions and millions and millions of tax dollars have been spent by all the independent counsel.

The GAO and Mr. Bowsher, the Comptroller General, are extremely apologetic for ignoring the specific request of Congress, as indeed they should be.

So this amendment is a simple one. And it is going to be complied with by GAO, I think. It just says you have to provide an explanation to Congress on their failure to comply with the law by September 1, 1992. Tell us why you cannot comply with the law. We will give you 2 months to do that, or about 6 weeks.

The amendment further requires the GAO complete and submit their financial reviews to Congress prior to adjournment.

Mr. President, I think it is an important amendment. We talked about accountability and the money that is spent and I hope the managers might be able to accept the amendment.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. We accept the amendment on this side and think it is well received and supported.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, the amendment addresses something that many have wondered about, and I am delighted that the minority leader has done so. We support it.

Mr. DOLE. I thank the managers.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2748) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BREAUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

AMENDMENT NO. 2749

(Purpose: To provide for a loan military vessel obligation guarantee program)

Mr. BREAUX. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX], for himself, Mr. HOLLINGS and Mr. RUDMAN, proposes an amendment numbered 2749.

Mr. BREAUX. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the paragraph regarding the Ready Reserve Force on page 71 of the bill, on line 10 beginning with "for" through to and including "program." on line 21, and insert in lieu thereof:

"For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, $146,000,000, to remain available until expended, of which $16,000,000 shall be available for the conversion of the U.S.N.S. HARKNESS: *Provided*, That funds available under this heading shall be available only to acquire ships which were registered in the United States on or before January 1, 1992, or to build Ready Reserve force ships in United States shipyards: *Provided further*, That reimbursement may be made to the operations and training appropriation for expenses related to this program.

MILITARY VESSEL OBLIGATION GUARANTEE PROGRAM

For the costs, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, as amended, $44,800,000: *Provided*. That the guaranteed loans made by the Secretary of Transportation, at the request of the Secretary of Defense, are only for types and classes of vessels determined by the Secretary of Defense, in consultation with the Secretary of Transportation, to be capable of having naval and military utility in time of war or national emergency: *Provided further*, That such loan guarantees shall be available only for construction of vessels in United States shipyards: *Provided further*, for administrative expenses to carry out the Guaranteed Loan Program, $2,350,000, which may be transferred to and merged with the operations and training appropriations for the Maritime Administration."

Mr. BREAUX. Mr. President, both Senators RUDMAN and HOLLINGS are cosponsors of this amendment. I present the amendment to comply with the Credit Reform Act which now, of course, requires that all guaranteed loan programs by the Federal Government have appropriated, up front, the necessary funds not only to fund the risk of potential defaults of any new loan guarantees, but also to cover the costs of administering the loan guarantees.

This amendment provides $44,800,000 to fund the title XI loan guarantee program to build ships which would be required to be built in American shipyards. In other words, private industry would be able to borrow money on the commercial market, and have the Department of Transportation guarantee that loan, in order to construct vessels in U.S. shipyards.

The important point here is that this language clearly requires that these funds can only be used for the types and classes of vessels determined by the Secretary of Defense in consultation with the Secretary of Transportation to be capable of having naval and military utility in time of war or in time of national emergency and that, further, such loan guarantees can only be used for construction of vessels in U.S. shipyards.

The purpose of this program is to ensure that in a time of emergency, the U.S. Department of Defense would have the vessels that are capable of transporting men and women, equipment, goods, and services to serve the American military wherever they may be called upon to be utilized.

The recent example—and the chairman of our Commerce Committee knows this very well—was in the Persian Gulf when the military had to go out and find ships that were mothballed or in reserve to be used to transport helicopters, tanks, men and women to the Persian Gulf. They found that, in many cases, the ships had been laid up so long that they were not in proper condition to be used, No. 1, and; second, the crews were not available to run the ships when the ships were finally put into tiptop shape.

So this legislation and this amendment would merely add some funds in order to guarantee loans for the construction of vessels that can be used in military and national emergencies and that are built in U.S. shipyards. This legislation is necessary so that when the Secretary of Defense says we need some ships, those ships will be on the seas being used by the private industry and can be converted immediately, that day, if necessary, to be used for the military. They will have trained crews because they will be running those ships already. Second, the ships will be in top shape because they will be in actual use rather than sitting somewhere mothballed, just deteriorating while waiting to be used.

So this amendment provides essential money for the loan guarantee program, including the risk that would be associated with making these guaranteed loans and the costs of administering the loan guarantees. I recommend adoption of the amendment as offered.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, this amendment has been cleared on both sides of the aisle.

Let me at this point commend my distinguished colleague from Louisiana, the chairman of our subcommit-

tee. He has been working tirelessly on the lack, frankly, of a marine reserve capability in the United States and specifically commend, of course, Secretary Andrew Card.

I talked earlier this morning with Secretary Card. He is our first Secretary of Transportation in quite a while who had a real feel for the merchant marine, its needs and an understanding of the embarrassment we had under Desert Shield as we were gearing up in the fall of 1990 and moving forward. At one time, it appeared like instead of going into the gulf, we were going to invade Spain. Ships were falling apart, breaking apart in the mid-Atlantic, and we were limping into Spain. The plumbing and everything else, the outfitting was rusty.

As the distinguished Senator has pointed out, we did not have the crews—and I have been, as chairman of our Commerce Committee, on to this particular problem for years, meeting with generals and admirals and just meeting and meeting and nothing getting done and everybody crying on each other's shoulders and nothing happens.

Now this makes it happen. It keeps alive the title XI program. We can help finance construction and reconstruction in domestic shipyards of these vessels. That not only give the jobs, obviously, to the shipyard workers but more or less gives the Secretary of Defense a valid option in his military and security commitments whereby he will have vessels ready, willing, and able not only by way of soundworthiness, seaworthiness, I should say, but by way of crews themselves who are ready to go.

They are what we call ship fit and ready to go at any time.

I commend Senator BREAUX for presenting this amendment, Secretary Card's support, the administration's support and, of course, it has been cleared on both sides of the aisle.

Mr. BREAUX. Will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. BREAUX. I also thank the chairman of the Commerce Committee as well as the Appropriations Subcommittee for his attempts to guide this effort. Those of us who have been around Congress for quite a while here or in the other body have worked a long time to try to get a maritime policy that is a true U.S. maritime policy. It seems we never could get all the competing interests, the shipbuilders, the ship owners and the shippers, together. I think the chairman has spoken correctly about Secretary Andy Card's effort at trying to get something working so that we can come up with a new act which would set maritime policy for Americans.

I know that my ranking colleague on the subcommittee, Senator LOTT, from Mississippi, has been working in our subcommittee along with Senator INOUYE, to try to come up with a program, I think we are very close, certainly the closet I can remember in 20 years in Congress. I think we have made some progress. With the leadership of the chairman and this effort, I think we are getting closer day by day.

Mr. HOLLINGS. I thank my distinguished colleague.

Mr. President, the ranking Member, Senator RUDMAN, is momentarily taking a call but he has permitted me to say this amendment has been cleared on both sides. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment.

The amendment (No. 2749) was agreed to.

Mr. HOLLINGS. I move to reconsider the vote.

Mr. BREAUX. I move to lay that motion on the table.

Mr. HOLLINGS. I suggest the absence of a quorum.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. If my colleague from South Carolina will withhold, I ask unanimous consent to speak for 5 minutes as if morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

TELEVISION VIOLENCE

Mr. SIMON. Mr. President, my colleagues may recall that a year and half ago, we finally, after a bit of a struggle, passed a bill that the President signed which made an exemption in the antitrust laws for 3 years so the television industry could get together and establish standards for violence on television.

Study after study has shown that violence on television is adding to violence in our society. Over the weekend—and I spent the weekend in Washington, DC, which I do not do very often—I had a chance to do some reading. I came across two books written by people I know and for whom I have great respect, and in both there is a reference to this problem. One is a book, "Today's Children," by Dr. David A. Hamburg, a physician by background, used to teach at Stanford and Harvard, president of the Carnegie Corp. Let me read a couple of sentences from his book.

> TV as a baby-sitter is not a substitute for intimate personal contact between parent and child. Television's graphic portrayal of violence as a means of dealing with life's problems has extensive repercussions. Although violence has long been an integral part of human history and of child development, no generation in history has ever grown up with so much exposure to vivid, immediate, and wanton violence divorced from moral as well as physical consequences.

This is not some far out kook who is talking; this is the president of the Carnegie Corp., a physician himself, former member of the faculty at Harvard and Stanford. Listen to another paragraph:

> Television is a persuasive presence in the lives of most American adolescents. One responsible estimate is that the average seventeen- to eighteen-year-old has spent 15,000 hours watching television, compared with 11,000 hours spent in school. Television programs often present violence and sex in an attractive way. Contraception is rarely mentioned. In effect, television provides young people with guidance about how to be sexy, but not much about how to be sexually responsible. Explicit linkage of sex and violence has increased in recent years. The vast exposure to television violence during the years of growth and development is well known. Some adolescents in turmoil are especially susceptible to this stimulation.

The second book, written by Fred Hechinger—he used to be on the editorial staff of the New York Times, is associated with the Carnegie Council on Adolescent Development—is titled "Fateful Choices." One section says:

> In a crisis that demands a comprehensive and urgent response, Prothrow-Stith says bluntly: "Our children are killing each other because we teach violence. We've got to do something to stop the slaughter."
>
> If violence prevention is to be successful, she warns, the television and film industry must be reached to change its ways. At present, she charges, the industry goes out of its way to portray violence as glamorous and painless. We had an incident at Boston City Hospital not long ago in which a 13-year-old kid came in with a gunshot wound," she recalls, "and he was surprised because it hurt."

Then there is another page here outlining why it is important that we deal with this problem of television violence. And then finally the recommendation that Fred Hechinger makes in his book:

> Today great efforts short of censorship should be made to purge the visual media, particularly television and rock programs, of their orgy of mindless violence. Sex reforms ought to begin with cartoons produced for young children that often make violence appear amusing.

We are, as I indicated, at the halfway point in this 3-year window we have given the television industry to come together and establish standards. One article recently published in the American Medical Association Journal estimates—on the basis of a study that they have made—that television has doubled the number of murders in our country as well as rapes and other attacks.

I do not know whether that is right or wrong. Suppose they are off by a factor of 90 percent. It is still a wanton, needless slaughter in our country.

I do not know, frankly, at this point whether the television industry is going to act and take advantage of this opportunity for voluntary standards on violence or whether they will not.

The cable industry has hired a distinguished researcher from the University of Pennsylvania to look at this. That is a good sign.

The broadcast industry has informally met twice. Whether, in fact, we are going to get any action or just spinning of wheels and public relations, I do not know. But I believe it is important for the country that we get action.

I think these comments by Dr. David Hamburg and Fred Hechinger in these two books illustrate the need for action.

Mr. President, if no one seeks the floor, I question the presence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2750

(Purpose: To provide $300,000 in funding for follow-up activities to the United Nations Conference on Environment and Development)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk, on behalf of Senator PELL, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. PELL, proposes an amendment numbered 2750.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 79, line 15, after "(22 U.S.C. 2718(a))" insert the following: ", and of which $300,000 shall be available for the Bureau of Oceans and Environmental and Scientific Affairs, for staff for follow-up activities to the United Nations Conference on Environment and Development, including necessary travel".

Mr. HOLLINGS. Mr. President, this is an amendment that earmarks $300,000 within the salaries and expense accounts of the Office of Environmental and Scientific Affairs budget for the particular function in that section. In other words, it is in addition to the research funding that we have provided for $12.405 million that is contained in the OES Department's budget.

This is a $300,000 add-on that is taken care of within the 602(b) allocation. This is simply an earmark, and is part of providing some $30 million for research on a variety of environmental issues.

Mr. PELL. Mr. President, I want to congratulate the Senator from South Carolina [Mr. HOLLINGS] on his efforts to strengthen the Bureau of Oceans and International Environmental and Scientific Affairs within the Department of State. The Senator has provided the Bureau with $30,000,000 for research on a variety of environmental issues, including climate change and antarctic environmental protection. This money should significantly strengthen the U.S. research program in these critical areas affecting the global environment. It is particularly appropriate in the aftermath of the U.N. Conference on Environment and Development.

In this connection, I also want to thank the Senator for accepting an amendment that I have offered to earmark $300,000 within the Salaries and Expenses account for the OES Bureau for staff for follow-up to that meeting. I want to clarify with the Chairman of the Subcommittee that it is his understanding that this funding will be in addition to the research funding he has provided and the $12,405,000 that is contained for OES in the Department's budget request.

Mr. HOLLINGS. That is correct.

Mr. PELL. I thank the Senator for his understanding. I look forward to working with him in the future.

Mr. HOLLINGS. Mr. President, the amendment has been cleared on both sides. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, without objection, the amendment is agreed to.

The amendment (No. 2750) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, we are momentarily moving along. We have an amendment by the distinguished Senator from Connecticut [Mr. DODD] who is on his way to the floor, and several other amendments we are clearing; with respect to an amendment by the Senator from Delaware, and a few others.

I hope Senators will be forthcoming about amendments that we have not been notified about, because we are ready to move this bill right along.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, most respectfully we have killed a half hour now, or 40 minutes, under the words we received as managers of the bill that "I know of four Senators who are on their way to the floor."

Mr. RUDMAN. Nobody told us from where.

Mr. HOLLINGS. No. We have understood that there were several.

We will be here at 6:30, or 7 o'clock tonight. The leadership on both sides of the aisle counseled us that this bill would commence at 2 o'clock.

This particular Senator had to call off a longstanding commitment. I would have loved to have been there.

I know we all have to do these kinds of things to get the business of the Congress moving along. We want the colleagues to help us with a little bit better discipline.

I am prepared to move and I know some Senators on the other side of the aisle are trying to get out of here to make further commitments they have made this evening. I am going to cooperate to the fullest with them trying my best to bring this to a close momentarily.

Now we keep on hearing and waiting, and they are coming to the floor, and then the staff calls them to the floor, and everything else.

I do not see any reason to delay.

I yield the floor.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, there has been longstanding notice that we were going to have this bill on at 2. That was given last week. The majority leader made it clear, after consulting with the Republican leader, we are going to vote on Monday. I do not know how the Senator from South Carolina feels about this, but, frankly, I would like to make a request of the majority leader and Republican leader that at 5:30, if we have done all the business that is before us, that we simply put in a unanimous-consent request that, with the exception of the matter we have discussed with Senator DANFORTH, the bill is closed, because, obviously, without that granted we cannot go to final passage without the substitution, and essentially for all intents and purposes close the bill.

I am going to ask Senator DOLE if he would agree with that. I think that gives people 3½ hours to do what they want to do .

Mr. HOLLINGS. Right; and another hour-and-a-half to find their way to the floor. I think it is very much in order.

So everybody has notification now, so they cannot come, in fairness, and say they did not know, and that we acted peremptorily or without consideration.

We need consideration down here on the floor, all of us, to move all of these bills before we have to recess in 10

days' time, or a couple of weeks I guess it is, for the Republican Convention, and then come back after Labor Day with only a few weeks to close these matters out.

This Congress, this Senate, has very, very important business under time constraints that force us to move ahead, and we are prepared and ready to do so.

Mr. RUDMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from New Hampshire suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

AMENDMENT NO. 2751

(Purpose: To provide small business loan guarantees to displaced defense workers)

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. LIEBERMAN, and Mr. PELL, proposes an amendment numbered 2751.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 76, line 25, strike all after "Armed Forces" up to and including page 77, line 2 and insert in lieu thereof the following: "of the United States, honorably discharged from active duty involuntarily or pursuant to a program providing bonuses or other inducements to encourage voluntary separation or early retirement, a civilian employee of the Department of Defense involuntarily separated from Federal service or retired pursuant to a program offering inducements to encourage early retirement, or an employee of a prime contractor, subcontractor, or supplier at any tier of a Department of Defense program whose employment is involuntarily terminated (or voluntarily terminated pursuant to a program offering inducements to encourage voluntary separation or early retirement) due to the termination (or substantial reduction) of a Department of Defense program,".

Mr. DODD. Mr. President, I ask further unanimous consent that the distinguished senior Senator from Rhode Island [Mr. PELL] be added as a cosponsor along with Senator LIEBERMAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, let me begin by commending the distinguished chairman and ranking minority member for a very fine piece of legislation that they brought to the floor of the Senate today. This legislation is going to do a great deal to assist in the transition after the end of the cold war from an economy that is dependent on defense in many areas of the country. The $230 million of economic conversion assistance in this legislation will go a great distance toward helping defense companies and the surrounding communities as well as the employees who work in those communities and work for those companies.

The amendment I am proposing, along with my colleague Senator LIEBERMAN of Connecticut, and Senator PELL, is aimed at broadening the authority under the Defense Economic Transition Loan Program which is established in title IV of the pending legislation.

As reported, Mr. President, the legislation would do two things. First, it would extend loan guarantee assistance to small businesses that are prime contractors, or subcontractors, to the Pentagon. Second, it would provide loan guarantees to members of the Armed Forces who wish to start up their own businesses.

This amendment, Mr. President, would broaden the authority of this second provision to ensure that displaced defense workers, as well as members of the Armed Forces, are made eligible for this type of assistance. It replaces the language of the bill with the language included in the legislation that Senator LIEBERMAN and I introduced a few weeks ago, the Small Business Defense Economic Transition Assistance Act.

This language has also been included in the Small Business Credit and Business Opportunity Enhancement Act of 1992, which is a coordinated effort between the House and Senate small business committees. So Members can be confident that this language has received a full and careful scrutiny.

The logic behind this language lies in the fact that if we want to preserve the skills and talents of the defense industry, our focus should be on the people of the defense industry.

We often talk in this Chamber about the steps we are going to take to preserve the defense industrial base as we go about this downsizing of the defense budget. I know many Members of this body are concerned, as I am, that if we cut too fast and too deep, we will lose many of the vital skills and technologies that helped us to win the cold war.

This is one very simple step, Mr. President, that can help us prevent such an outcome. By providing loan guarantees to displaced defense workers, we are giving them a green light to take the technologies and skills that they learned in the defense industry and put them to work in the civilian sector. If there is a better definition of the term "conversion," Mr. President, I don't know what it is.

We have some experience with this in Connecticut, Mr. President. The recent cutbacks at Electric Boat, in Groton, threaten serious damage to the economy of the region. But if there is hope, Mr. President, it can be found in the many former workers of Electric Boat and other defense industries in the region who are taking business ideas of their own and putting them to the test.

In fact, the director of the local Small Business Development Center in Groton says he will counsel over 400 people this year—and about half of them are laid-off defense workers or veterans. That should say something about the importance of this type of assistance.

I will not take a great deal of time on this amendment because we talked with both the majority and minority staff about this particular proposal. But I believe very strongly that the people who have worked as our welders, pipefitters, designers and engineers over these past four and half decades, who contributed, essentially, to the victory of the cold war—these are in fact the veterans of the cold war. And in our debate of who needs to be thanked for what happened over the last four and one-half decades, certainly the American taxpayers and people in the uniformed services deserve recognition, but oftentimes these people who worked in the defense plants, subcontractors, suppliers, as well as the major industries, are left behind in that discussion.

This amendment merely says if these dollars are going to be used for economic conversion, that these people, as they lose their jobs—and thousands already have, in my State, in California, across the country deserve our recognition, and our assistance.

I want to thank Senator HOLLINGS and Senator RUDMAN for their support of this amendment.

Mr. PELL. Mr. President, the amendment offered by Senator DODD would simply broaden the coverage of small business loan guarantees being made in connection with defense adjustment.

As provided in the bill as reported, defense economic transition assistance under the Small Business Loan Guarantee Program would be extended to two groups: existing small businesses adversely effected by contract terminations or base closures, and new small businesses being established by former members of the Armed Forces.

This amendment would simply add another group adversely affected by defense curtailments, and that is former employees of defense contractors who have been laid off as a direct result of contract curtailment or termination.

The amendment would not increase the amount of authorized funding but would expand the number of potential applicants for the guarantees backed by the $40 million appropriation.

The actual impact is difficult to estimate, but I can say that a small but energetic minority of the 2,000 Electric

Boat employees being laid off in my State and nearby Connecticut are actively pursuing careers as independent entrepreneurs.

On their behalf I ask to be added as a cosponsor and I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Connecticut has indicated this recognition is long overdue. What it provides now is in conformance with our defense conversion provisions. It has been cleared on our side of the aisle, and I think on Senator RUDMAN's side of the aisle.

I urge the adoption of amendment.

The PRESIDING OFFICER. Is there further debate? If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2751) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire [Mr. SMITH].

AMENDMENT NO. 2752

(Purpose: To restore the Second Amendment rights of all Americans)

Mr. SMITH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 2752.

At the appropriate place, add the following:

"The Assault Weapon Manufacturing Strict Liability Act of 1990 (D.C. Act 8-289, signed by the Mayor of the District of Columbia on December 17, 1990) is hereby repealed, and any provisions of law amended or repealed by such Act are restored or revived as if such Act had not been enacted."

Mr. SMITH. Does the manager of the bill wish a time agreement on this? I have no objection to a time agreement if you wish to have one.

Mr. RUDMAN. If my colleague from New Hampshire will yield for just one moment.

Mr. President, this will be very brief. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RUDMAN. Mr. President, I suggest to my colleague from New Hampshire that we proceed with this amendment. We are unable to get an agreement at this moment for a limitation on debate on the amendment. We may have it in a few moments. When and if we do, I will ask the Senator to yield for the purpose of getting an agreement. I yield the floor.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire [Mr. SMITH].

Mr. SMITH. I thank my colleague from New Hampshire and will inform him my remarks should not be more than 10 or 15 minutes and would inform any colleague of that fact in case they wish to make plans one way or the other regarding this amendment.

Mr. President, this amendment would simply repeal the District's liability gun law. This is a very strange, to say the least, and counterproductive law. It was enacted by the District of Columbia last year, as you know, and it would attempt to control the District's admittedly serious crime problem but in a way that is quite controversial and, frankly, unconstitutional by allowing the District of Columbia to determine what types of firearms residents of the 50 States may or may not buy.

It also makes manufacturers, as well as distributors, liable for a crime committed with a semiautomatic firearms in Washington, DC. The ramifications of that law, Mr. President, are startling.

Assume, for example, that a resident of South Carolina legally purchases a semiautomatic firearms, legally purchases a semiautomatic firearm manufacturered by, say, company Glock in Georgia. Assume further that the firearm is then stolen and transported into the District of Columbia where it is used by a drug dealer who shoots a rival drug dealer. Under the D.C. gun law, the injured drug lord could sue Glock, the company in Georgia who made the gun, and the South Carolina dealer to recover damages. In fact, the only party that the D.C. gun law would not allow him to sue is the criminal who shot him. The company gets sued who made the gun; the distributor gets sued who sold the gun; and the person who did the killing does not get sued. Both the manufacturer and the distributor do.

Surely there is some twisted sense of logic here that I fail to understand as we try to control crime, and we need to control crime, in the District of Columbia. The only conceivable rationale behind this misbegotten enactment is that the District of Columbia is trying to control its own crime problem by enacting national gun control. I think that is really the agenda here.

If the manufacturer of a semiautomatic firearm can be held liable for all damages and thus potentially put out of business every time one of its firearms is misused—not used—misused, the District of Columbia assumes that the national manufacture of semiautomatics will come to a complete halt.

While we are all concerned about the crime problem in D.C., this legislation creates far more problems than it could possibly solve. In the first place, the District's action threatens to cut off the sale of all firearms to Federal and local law enforcement authorities based in the District of Columbia. I want to make sure that is understood. It threatens to cut off the sale of all firearms to Federal and local law enforcement authorities based in the District. Why is this? It is because the one sure way that firearms manufacturers and dealers can avoid liability under the D.C. law is to deny the District jurisdiction over their operations, and this can be accomplished quite easily: By refusing to sell firearms of any type to the Capitol Police, the FBI, the Secret Service, the D.C. Police, the Bureau of Alcohol, Tobacco and Firearms, and other D.C.-based law enforcement officials or agencies.

Already, Colt Manufacturing Co.—this is very significant, Mr. President—Colt Manufacturing Co. of Connecticut, Gun South, Inc., of Alabama, Intratec of Florida, Action Arms Lts. of Pennsylvania, Beretta USA of Maryland, Springfield Armory of Massachusetts, and Sturm, Ruger & Co. of Connecticut have indicated either that they will cease doing business with District-based law enforcement authorities or that they are seriously considering doing so.

Mr. President, I ask unanimous consent that letters from Colt, Gun South, Intratec, Action Arms, Beretta, Springfield Armory, and Sturm, Ruger be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COLT'S MANUFACTURING CO., INC.,
Hartford, CT, November 19, 1991.

Congressman DANA ROHRABACHER,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN ROHRABACHER: Colt's Manufacturing Company has been a proud supplier of reliable firearms to the United States Government and to America's law enforcement officers for over a century and a half. However, we are now faced with a law in Washington, D.C. unlike any other in history, and this new law may force Colt's to reconsider its sales policies regarding both the D.C. law enforcement community and the U.S. Government.

This unconscionable new law could make Colt's and other manufacturers liable in civil lawsuits to anybody claiming to be injured by anyone using, or misusing, certain firearms without regard to the conduct or misconduct of the person who fires the shot, and without regard to the care and safety with which the firearm is manufactured.

Because Washington, D.C. already has restrictive gun laws, Colt's does business there only with law enforcement and military agencies. Since the new law contains no exemptions for firearms sold to law enforce-

ment or the military, all of Colt's future business in the District of Columbia could be in question. We may be forced to refuse to sell our products to such agencies in order to protect out company, its union work force and its management from the disastrous consequences of lawsuits which could be filed under the new law.

Sincerely,

JOHN HOLJES,
Vice President.

GSI INC.,
Trussville, AL, December 10, 1991.

Senator BOB SMITH,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR SMITH: It is with deepest regrets that GSI Incorporated must reexamine our current marketing policies in regard to current sales to US Government and District of Columbia law enforcement agencies in the event legislation is passed that would make firearms manufacturers or their agents liable for damages to persons injured by criminal misuse of firearms. If such legislation is passed, it is our intention to refrain from participation in any procurement action made by all of the subject agencies in order to protect GSI from the adverse effects of litigation resulting from the proposed legislation.

Sincerely yours,

DONALD F. WOOD,
President, GSI Inc.

INTRATEC,
December 10, 1991.

Senator BOB SMITH,
Dirksen Building, Washington, DC.

DEAR SENATOR SMITH: The following is in reference to the Washington, D.C. firearms manufacturers' liability law. This law could assign liability to us from persons claiming to be victimized by the use of firearms, irrespective of the behavior of the firearm user or the safety features accompanying the firearm.

We regret to inform you, that in the event this law goes into effect, it is our intention not to sell our firearms to any person, governmental agency, or law enforcement agency located in the District of Columbia.

We regret having to consider such an action, but the board and vague nature of the statute along with its unconstitutional expansion of liability dictates that such action be taken.

Sincerely,

MARTHA FERNANDEZ,
Office Manager.

ACTION ARMS LTD.,
Philadelphia, PA, December 10, 1991.

Senator BOB SMITH,
Dirksen Building, Washington, DC.

DEAR SENATOR SMITH: Since our founding over 12 years ago, numerous federal departments, agencies services and bureaus have procured firearms from our company, and are continuing to do so. However, a new law in the District of Columbia has convinced us that a reassessment of this supply program is necessary. This law could assign liability to us from persons claiming to be victimized by the use of firearms, irrespective of the behavior of the firearm user or the safety features accompanying the firearm.

Our only sales within District boundaries are to U.S. government and security agencies. Restrictive gun laws have precluded us from selling our products to the commercial market. However, the fact that these agencies have not been excluded from the new law will have a devastating impact on our company by in effect making Washington D.C. off limits for U.S. governmental sales.

Sincerely,

JERRY STERN,
President.

BERETTA U.S.A. CORP.,
Accokeek, MD, November 19, 1991.

Congressman DANA ROHRABACHER,
House of Representatives, Committee on the District of Columbia.

DEAR CONGRESSMAN ROHRABACHER: I wanted to write to you to express my concern regarding the recent bill passed in the District of Columbia which would make firearms manufacturers responsible for damages to persons injured by the criminal misuse of a firearm. I understand that your committee has oversight authority with respect to legislative actions taken within the District of Columbia.

I have several concerns regarding this legislation. First, it is wrong to say that, when a company manufactures any of the firearms depicted in this legislation, they do so with the intent that the weapon will be misused by criminals. Firearms manufacturers make their products for use by the sporting public, for collecting, for use in law enforcement and for use in self-defense. Laws currently exist which penalize those who make or sell a weapon for use in criminal activity. The Beretta Model AR 70 rifle, specifically named in the D.C. legislation, has been sold by my company over the years to shooting enthusiasts, to collectors, and to law enforcement agencies. To suggest that Beretta should be held responsible for actions of criminals when Beretta's production and sales of the AR 70 rifle were made for legitimate pursuits smacks of gross unfairness.

Second, the D.C. bill is vague. While it lists some specific weapons as falling within its scope, it does not, on its face, define whether those weapons are listed as examples of firearms subject to the law, or whether they are simply demonstrative of firearms which would be subject to the jurisdiction of the law. My concern in this regard is increased by the introductory language of the bill, which makes a reference to handguns as contributing to crime problems in the District. A court, citing this language as expressing the intent of the law, could seek to hold the manufacturer of semiautomatic pistols or revolvers responsible for criminal acts committed with those products, even though the manufacturer had no notice of such potential liability.

Third, the bill may effectively rob government agencies located in the District of the ability to purchase weapons with which they can effectively respond to criminals. If the D.C. liability law becomes effective, Beretta, for example, will be compelled to consider ceasing any further sales to the D.C. police, the Park Police, the DEA, the FBI or any agency located in the District. Our concern, of course, would be that we not establish minimum business contracts in the District such that D.C. long arm statutes would be used to impose liability on Beretta for criminal misuse of any of our products. Stated more simply, we are concerned that court, citing as evidence sales by Beretta to the D.C. police department, the FBI and other agencies, will rule that Beretta, by virtue of its close business contracts with the District, has agreed to be governed by the laws of the District of Columbia and can be held liable for criminal acts coincidentally involving a Beretta product. The net effect of Beretta's refusal to do business in the District would be that the law enforcement agents who most urgently need its excellent and reliable products will be unable to purchase them.

I have other concerns about the D.C. liability bill, including its unconstitutional encroachment on interstate trade, its continuation of the erosion of vital Second Amendment rights, and its tendency to distract attention from the causes of crime—which supporters of the bill seem loath to address because these causes go to the heart of the failure of social and political institutions of which they are the major component—by placing attention on the mechanical devices which criminals sometimes use (or, in the case of the weapons listed in the bill, almost never use).

The D.C. liability bill will have no effect on crime, will impose liability on parties who are not responsible for the criminal conduct involved, is unconstitutional and vague, will with certainty involve the district in expensive legal defenses, and may strand District and Federal law enforcement agencies from the advances in technology which their counterparts and, ironically, the criminal element, will remain free to enjoy. For these reasons, I would encourage you to do everything possible to ensure that the bill is overturned by Congress.

Sincerest regards,

ROBERT L. BONAVENTURE,
Executive Vice President.

CALIFF & HARPER, P.C.,
ATTORNEYS AT LAW,
Moline, IL, November 19, 1991.

Hon. DANA ROHRABACHER,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN ROHRABACHER: This office is general counsel to Springfield Armory, Inc., Geneseo, Illinois. I have been authorized to inform you that in the event the Washington, D.C. firearms manufacturers' liability law goes into effect, it is Springfield Armory's present intention not to bid on any contract nor sell any of its guns, both pistols and rifles, to any person, governmental agency, or law enforcement agency located in the District of Columbia.

Springfield regrets having to consider such an action, but the broad and vague nature of the statute along with its unconstitutional expansion of liability dictates that such action be taken.

With best regards, I remain,

Very truly yours,

WILLIAM H. DAILEY.

STURM, RUGER & CO., INC.,
Southport, CT, December 9, 1991.

Hon. BOB SMITH,
Attn: Mr. Corrigan
Dirksen Senate Office Building, Washington, DC.

DEAR MR. CORRIGAN: We would like to register in strongest possible terms our opposition to the above. Although we manufacture no firearms that appear on this list, we are most concerned that this is bad law, bad social policy, and bad precedent for any product, firearm or otherwise.

Sturm, Ruger & Company, Inc. was founded in 1949 and is a domestic manufacturer of high quality firearms for sporting, police, personal defense, and military applications. Federal agencies that have used Ruger firearms over the years include the Federal Bureau of Alcohol, Tobacco and Firearms, the U.S. State Department, the U.S. Customs Service, the U.S. Postal Service, the Department of Immigration and Naturalization, the Border Patrol, and the U.S. Marshall's Of-

fice. We have also recently sought to obtain U.S. government contracts from the U.S. Army, the F.B.I., and the D.E.A. We do no civilian business within the District of Columbia.

If not repealed by Congress, the courts will have to interpret the "doing business" aspect of the D.C. Long Arm Statute, and whether or not selling to a Federal agency within the District would thereby subject a manufacturer to this indefensible absolute liability sought to be imposed against lawful manufacturers of firearms many states away. Sturm, Ruger & Company, Inc. would then have to carefully consider whether the risk of payment of multimillion dollar judgments, without any available defenses under the Act, can support that relatively small portion of it's business that arises out of Washington-based Government sales.

I must stress that no such decision has yet been made, and indeed, it cannot be made until the law is either overturned or the appellate courts speak conclusively on this subject. However, suspension of any sales within the District would have to be considered if such sales were to be held a basis for long arm jurisdiction under the D.C. Act.

Thank you for allowing us to explain our position.

Very truly yours,

STEPHEN L. SANETTI,
General Counsel.

Mr. SMITH. Mr. President, the second problem with the District's strict liability gun law is that it threatens to bankrupt legitimate gun manufacturers and dealers through lawsuits brought by injured drug lords. Injured drug lords can bring suit against manufacturers and dealers.

How genuinely ironic it would be if 1,000 honest, hard-working people were thrown out of work in Florida, Connecticut, or Massachusetts in order to finance a D.C.-based drug empire, because that is exactly what would happen.

The third deficiency in D.C.'s approach has to do with its potential precedential impact on tort law. Historically, liability has not been applied to products that are lawfully manufactured, lawfully sold, lawfully distributed, and function properly. If the District can implement national firearms policy because of its distaste for guns, well, who is next Alcohol, cigarettes, condoms? As a result of the almost limitless implications of imposing strict liability on the manufacture or distribution of an otherwise lawful or nondefective product, virtually all of our Nation's top torts scholars oppose laws similar to this one.

Let me cite a couple. Victor Schwartz, author of "Schwartz on Torts" testified against the D.C. law in the House. Here is what he said:

Let me quickly share with you a key point—the law of torts is not the place to try to ban or eliminate the manufacture of assault weapons. Assuming that a person is seriously wounded or killed by an assault weapon that was well-manufactured and worked the way it was supposed to work, the manufacturer should not be subject to liability for harms caused by that weapon.

These views are not mine alone. My senior author, the late Dean William Prosser, author of the famous, "The Fall of the Citadel," a foundation piece for strict products liability, steadfastly maintained that such liability should not be imposed when products operate as they are suppose to operate and have nothing wrong with them. Lawyers would say that the product has "no defect." Dean Prosser and other great scholars, judges, and practicing lawyers helped formulate strict products liability in a 1965 document called, "The Restatement (Second) of Torts"

Sec. 402a. It echoes the same theme. A principal comment to section 402a says that a product manufacturer is not to be held liable for "inherent characteristics of a product." These are characteristics that are commonly known and cannot be removed from the product without compromising its basis function.

Schwartz goes on to cite support from coauthors of the leading American textbook in the field of products liability, Jim Henderson of Cornell and Aaron Twerski of Brooklyn Law School, pointing out that courts have been steadfast in not applying the [strict liability] doctrine manufacturers when somebody else, a third party, a responsible party, uses the product in an improper way.

These are the scholars in the field, Mr. President.

I ask unanimous consent that the testimony by Victor Schwartz be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE IMPOSITION OF LIABILITY WITHOUT DEFECT IS UNSOUND PUBLIC POLICY ADVERSELY IMPACTING INTERSTATE COMMERCE

(Testimony by Victor E. Schwartz, partner, Crowell & Moring Before the House Committee on the District of Columbia, November 21, 1991)

Thank you Mr. Chairman for the opportunity to testify about legal issues that have been raised concerning the District of Columbia Assault Weapon Manufacturing Strict Liability Act of 1990 and the need for passage of H.R. 3712.

Let me briefly state my background regarding the subject of liability. Beginning in the late 1960's I was a Professor of Law at the University of Cincinnati and, subsequently, its Acting Dean. Apart from tort law, I taught conflicts of law which has some relevance to the issues of concern to this Committee. I have written many articles in the field of tort law and am the co-author of the most widely used torts-liability casebook in the United States, W. Prosser, J. Wade and V. Schwartz, *Cases and Materials on Torts*. The book is now in its Eighth Edition. From 1976 to 1980, under both Presidents Ford and Carter, I chaired the Federal Interagency Task Force on Product Liability—it conducted the most in-depth study of product liability that has been published in the United States to date. Since 1980, I have been a member of the Washington law firm of Crowell & Moring and co-chair its Torts and Insurance Practice Group. Over the past 25 years, I have represented both plaintiffs and defendants. My views today are based on all of these experiences—that is where I am coming from.

Let me make clear where I am not coming from. I am not a gun owner—I have never owned one. I have not and am not representing people who manufacture or distribute guns. From what I have read, I can truly appreciate the harms that so-called "assault" weapons have done in our society. I also have been informed that law enforcement officials have used these weapons to combat crime.

Let me quickly share with you a key point—the law of torts is not the place to try to ban or eliminate the manufacturer of assault weapons. Assuming that a person is seriously wounded or killed by an assault weapon that was well-manufactured and worked the way it was supposed to work, the manufacturer should not be subject to liability for harms caused by that weapon.

These views are not mine alone. My senior author, the late Dean William Prosser, author of the famous, *The Fall of the Citadel*,[1] a foundation piece for strict products liability, steadfastly maintained that such liability should not be imposed when products operate as they are supposed to operate and have nothing wrong with them. Lawyers would say that the product has "no defect." Dean Prosser and other great scholars, judges, and practicing lawyers helped formulate strict products liability in a 1965 document called, *The Restatement (Second) of Torts* §402A. It echoes the same theme. A principal comment to §402A says that a product manufacturer is not to be held liable for "inherent characteristics of a product." These are characteristics that are commonly known and cannot be removed from the product without compromising its basic function.

When §402A was debated, Dean Prosser said, "[T]he fact that the product itself is dangerous or even unreasonably dangerous to people who consume it, is not enough. There has to be something wrong with the product." Similar thoughts were expressed by, my now senior co-author, Dean John W. Wade. *See* Wade, *On the Nature of Strict Liability for Products*, 44 Miss. L. Jour. 825, 842 (1973).

In 1991, over 25 years after Restatement §402A was published, a number of prominent academics, assisted by advisors from courts and practice, conducted a five-year study for the American Law Institute entitled, "Enterprise Responsibility for Personal Injury." While they made many recommendations for changes in the law of products liability, they stated clearly:

"A product's design should be deemed defective if, and only if, there was a feasible alternative design which, consistent with the consumer's expected use of the product, would have avoided the particular injury . . ."

See A.L.I. Reporters' Study, "Enterprise Responsibility for Personal Injury," Vol. 2, p. 56 (1991).

The co-authors of the leading American textbook in the field of products liability, Professor Jim Henderson of Cornell and Professor Aaron Twerski of the Brooklyn Law School, have recently completed a seminal article dealing with the same topic. *See* J. Henderson and A. Twerski, "Closing the American Products Liability Frontier: The Rejection of Liability Without Defect," 66 N.Y.U. L. Rev. (1991) (to be published). This article, in an in-depth fashion, shows why it is unsound public policy to impose liability on manufacturers where there is nothing wrong with a product.

As the article indicates, some have suggested that the manufacturer of assault weapons is akin to what tort law has called an "abnormally dangerous" or a "ultra-hazardous" activity—some courts have ruled

[1] 50 Minn. L. Rev. 791 (1966).

that conducting certain selected activities justifies the imposition of strict liability. A few such activities have been singled out by courts, such as blasting and the use of poisonous gas, principally because they are highly dangerous and "abnormal" to their environment. But there is a great deal of difference between that type of liability and imposing liability on a manufacturer of a product. Under the abnormally dangerous activity doctrine, the active party who causes the harm is the person who *engages in the activity itself*, he conducts the blasting or sprays the poisonous gas. Courts have been steadfast *in not* applying that doctrine to manufacturers when somebody else, a third party, a responsible party, uses the product in an improper way.[2]

Legal niceties aside, what are the basic public policy reasons for this result? First, when a person is killed by an assault weapon, the wrongdoer is the person who pulled the trigger, not the weapon itself. Assault weapons have caused a great deal of harm in our society, but they have also been used safely, and for legitimate purposes. Our liability law should not *externalize* responsibility, that is, shift responsibility away from the people who did the wrong—the person who pulled the trigger, or any individual who, in violation of criminal law, sold him that weapon, and, instead, place blame on the so-called "deep pocket" manufacturer who did nothing more than produce a lawful product.

Tort law has properly concentrated on defective products, products that manufacturers could have made safer. In the classic case of the Ford Pinto, the gas tank could have been placed further away from the rear of the car and a firewall could have been installed. With these changes in place, an automobile would be less likely to be subject to fire in low impact collisions. In point of fact, there is no way to make a gun that can only be used for legitimate and not illegitimate purposes—it is impossible if the product is still to be a gun. The same is true of a knife, a hatchet, a rope, or any product that can be used to kill or maim. Let me get to a more practical example, alcoholic beverages. Many people enjoy alcoholic beverages without causing harm to others. Nevertheless, all of us know that alcohol has caused a great deal of harm in our society. The number of people killed by drunk drivers probably exceeds those who have been killed by assault weapons. Should this Congress support a principle that could subject manufacturers of alcohol to liability for every person harmed by a drunk into American law? I think not. The implications of this principle for businesses operating in interstate commerce are staggering.

When this new law is placed in the context of general American product liability law, it stands alone—all states now require that a plaintiff show that something is wrong with the product.[3]

The European Economic Community recently drafted an EC Directive on product liability. It is now law in eight countries (the United Kingdom, Greece, Italy, Luxembourg, Denmark, Portugal, Germany, and the Netherlands). The EC Directive, in clear language, states that for liability to be imposed, there must be a "defect" in the product. *See* Article 4.[4] The District of Columbia Assault Weapon Strict Liability Act of 1990 is isolated not only in the United States, but the entire commercial world. The most modern principles of foreign product liability law do not hold manufacturers or distributors of products responsible when that product has not been shown to be defective.

Some have said that the Assault Weapon Manufacturing Strict Liability Act of 1990 is confined to the perimeters of the District of Columbia. This is not in accord with practical fact. This law can affect manufacturers who never sell weapons privately in the District. If they sell weapons to law enforcement officers, but other weapons made by the same manufacturer find their way into the District, this well could be enough to provide District of Columbia courts with jurisdiction over the manufacturer if these other weapons are used for illegal purposes. The Assault Weapon Manufacturing Strict Liability Act of 1990, as the Congressional Research Service has reflected, has extraterritorial impact, there is no getting away from it.

The liability exposure from imposition of liability where a product works as it is supposed to is beyond any liability exposure that has been witnessed in the United States. Under the Assault Weapon Manufacturing Strict Liability Act of 1990, this exposure can be thrust on a manufacturer even though it produced a lawful product and broke no criminal law of the District of Columbia.

Our country has problems with our liability system as it is—many state statutes have been enacted to confine some of the excessiveness of the 1980's. Recently, a number of leading state supreme courts have taken similar steps. To impose liability on a product without defect thrusts interstate commerce on a deep, dark ocean of liability from which there is no point of return—it is a legal distortion that cannot be justified.

The Assault Weapon Manufacturing Strict Liability Act of 1990 placed tort law in the middle of a broad-based political fight between those who want to regulate and those who do not want to regulate assault weapons. That fight should be resolved within the framework of regulation—legislators and others who wish to ban or limit weapons in the United States should make their case and persuade persons that this is sound public policy for our society. That is the arena for the fight, not tort law.

I will end where I began. I am not a member of the NRA or any organization that either supports or opposes gun control. I have been in the field of liability law throughout my professional life. That experience says that manufacturers of guns should be subject to liability if they fail to provide adequate instructions to the product user, if they make weapons that blow apart or do not function properly; they should not be subject to liability when their product works as intended. In my judgment, H.R. 3712 represents sound public policy in repealing the Assault Weapon Manufacturing Strict Liability Act of 1990.

Mr. SMITH. Mr. President, in addition to Professor Schwartz, Justice Richard Neely, of the West Virginia Supreme Court of Appeals, testified in the House in opposition to the District of Columbia law, and he said this:

Consequently, it appears to me that if D.C. Act 8–289 is allowed by Congress to stand and is then upheld against constitutional challenge by the courts of the District of Columbia and the Supreme Court of the United States, we will have recognized finally the Alice in Wonderland nature of America's product liability system. I would predict that after weapons manufacturers, the next target for tort law shutdown will be cigarette manufacturers.

Or perhaps the distributors of red meat, Mr. President. Who is next?

Mr. President, I ask unanimous consent that the full statement of Richard Neely be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY BY JUSTICE RICHARD NEELY, WEST VIRGINIA SUPREME COURT OF APPEALS

(Before the House of Representatives Committee on the District of Columbia, September 12, 1991)

Thank you Mr. Chairman and the other distinguished members of the committee for the invitation to discuss the impact on the national law of products liability of the Assault Weapon Manufacturing Strict Liability Act of 1990.

For those of us who favor a national law of products liability, and particularly for those of us who favor S640 currently under consideration in the United States Senate, D.C. Act 8–289 is, perhaps, a Godsend. This statute makes such a mockery of what are generally thought to be "legitimate" tort principles that D.C. Act 8–289 may succeed in forcing the Supreme Court of the United States—even in the absence of Congressional action—to create a new, national common law of products liability.

Current American tort law, particularly the law of products liability, rests on three pillars. D.C. Act 8–289 burdens each and every one of these pillars to the breaking point.

The first tort law pillar is the constitutionality of state long arm statutes that permit plaintiffs to sue out-of-state defendants in local courts when the defendants have some "minimum contact," such as doing business or advertising for customers, in the plaintiff's home state. The U.S. Supreme Court has been surpassingly liberal towards plaintiffs of late in its determinations of what is sufficient to constitute a jurisdiction-giving "minimum contact."

The second pillar of modern tort law is the constitution's full faith and credit clause which requires all other state courts to enforce judgments entered under jurisdiction conferred by virtue of a long arm statute.

The third pillar is substantive tort law. Today's tort law is increasingly based on insurance principles, so that theories like strict liability and comparative fault (which were thought unacceptably radical just twenty years ago) are now accepted by the courts everywhere. These theories, in turn, are premised on risk-spreading insurance principles and, as a practical matter, tort liability is something against which every company with assets insures.

D.C. Act 8–289 is, at late last, an official codification of what have previously been either thickly veiled or entirely unconscious schemes that redistribute wealth from out-of-state defendants to in-state plaintiffs

[2] *See Armijo v. Ex Cam, Inc.*, 656 F.Supp. 771 (D.N.M. 1987), *aff'd*, 843 F.2d 406 (10th Cir. 1988); *Perkins v. F.I.E. Corp.*, 762 F.2d 1250 (5th Cir. 1988); *Caveny v. Raven Arms Co.*, 665 F.Supp. 530 (S.D. Ohio 1987); *Riordan v. International Armament Corp.*, 132 Ill. App. 3d 642, 87 Ill. Dec. 765, 477 N.E.2d 1293 (1985); *Knott v. Liberty Jewelry and Loan, Inc.*, 50 Wash. App. 267, 748 P.2d 661 (1988).

[3] The only case that "went the other way" involving guns was in Maryland in a decision dealing with handguns. *See Kelley v. R.G. Industries, Inc.*, 304 Md.2d 124, 497 A.2d 1143 (1985) (handgun). That case was subsequently overruled by the Maryland legislature. *See* Md.Stat.Ann. at 27 §36(h)(1) (1987).

[4] Article 4 says that, "The injured person shall be required to prove the damage, the defect, and the causal relationship between the defect and damage."

through state tort law. Therefore, in order to understand how D.C. Act 8-289 mocks the tort system, laughing at the apparently sincere protestations of trial lawyers, law professors and state court judges that the states can be "fair and honest" in product liability cases, we must examine the current state of product liability law. Indeed, even before D.C. Act 8-289 was enacted, a national law of products liability was desperately needed!

I

I have been a judge of West Virginia's highest court since 1973, and I have served three times as West Virginia's chief justice. In that time, product liability law has undergone great changes, but as long ago as 1976 we were beginning to see a "competitive race to the bottom" in product cases. Typically, in a product liability case, there is an in-state plaintiff, an in-state judge, an in-state jury, in-state witnesses, in-state spectators, and an out-of-state defendant. When states (or the District of Columbia) are entirely free to craft the rules of liability any way they want, it takes little imagination to guess that out-of-state defendants as a class won't do very well.

Business justifiably complains of what appear to be utterly perverse results. For example, in 1976 John Newlin, a Pennsylvania farm manager, ordered an International Harvester Front End Skid Loader. That model came equipped with a roll bar, but Mr. Newlin requested that the roll bar be removed so the tractor could go through his low barn door. Jim Hammond, a farm employee, operated the skid loader for several months, but then one day in a freak accident turned the machine over and killed himself. Mrs. Hammond, Jim's widow, sued International Harvester and recovered a big verdict because the skid loader was defective for not having a roll bar—the roll bar that had been removed at the direction of the purchaser. This type of result is typical in product cases and is not necessarily even irrational if we want to create a no-fault insurance mechanism. But it is now time to give rational order to the insurance mechanism that we have created helter-skelter. The value, then, of D.C. Act 8-289 is that it focuses attention on the entire system's perversity and makes explicit certain premises that until now have been only implicit.

Until about 1960 a plaintiff in a product case had to show that the manufacturer was negligent, but now such a showing is no longer required. Today it is necessary only to demonstrate that the product had either a design or manufacturing defect that caused the plaintiff injury while the product was being used for either its intended purpose or another foreseeable purpose. Furthermore, juries are given such broad discretion that the purchaser—as in the Harvester case—can be entirely at fault yet an injured victim may still recover. None of this, however, was expressly admitted before the arrival of D.C. Act 8-289.

Unlike England, France and Germany (our major European competitors), the United States does not have one unified court system. Rather, we have fifty-three separate, uncoordinated court systems. First, there is the nationwide system of federal courts, which is divided into thirteen separate circuits that are only loosely held together by the Supreme Court of the United States. In addition to the federal courts, however, there are freestanding court systems in the fifty states, the District of Columbia, and Puerto Rico.

America's diversity of court systems leads to a diversity of law systems because American judges, like their English predecessors, have extensive law-making powers. Because each separate court system is administratively independent of the others, each separate court system is free to generate eccentric judge-made law at odds with the statutory and judge-made law of other jurisdictions. Thus, there is no "American" law of product liability in the sense of uniform national standards.

Given the profile of product liability suits, where the defendant is invariably from out-of-state, there is a "competitive race to the bottom" among state courts to create ever more liberal liability rules. This is not necessarily an intentional anti-business policy, but simply an exercise in economic self-defense: Any state court (or state legislature, for that matter) that does not keep up with the latest pro-plaintiff rulings is behaving entirely irrationally. That is why when one court pushes the frontier of product liability law further out because of an extraordinarily sympathetic set of facts, the new pro-plaintiff frontier quickly becomes the law for all, or nearly all, of the states. Now, however, with the advent of D.C. Act 8-289 the state legislatures have joined the fray, which will dramatically speed up the competitive race to the bottom.

Although my personal experience has been in a state with elected judges, I have found that many of the most pro-plaintiff decisions—like the Harvester case—have come from either federal judges or appointed state judges. This is because even appointed trial and appellate judges are swayed by the emotional incentives that favor the redistribution of wealth from out-of-state defendants to local residents, which is why product liability law becomes more and more oppressive to business. In the case of the District's strict liability bill for the manufacturers of certain types of firearms, product liability's oppression of those who cannot respond politically is finally explicit. It is certain as night follows day that the District would never have passed the statute now under consideration if firearm manufacture were a major taxpaying D.C. industry with employees who could vote and management who could make campaign contributions.

By pointing these dynamics out I do not mean to imply that every, or even most product liability decisions are the result of bias against out-of-state defendants or of a cavalier disregard by judges and juries of accepted standards of right and wrong. But it is not the overwhelming majority of ordinary cases or ordinary statutes that determine the contours of the law; rather, it is the extraordinary case, like the International Harvester case I discussed earlier, and the extraordinary statute, like D.C. Act 8-289 under discussion here today, that determine the contours of the law.

Thus, in close product liability cases where fact patterns are on the edge of existing law and the sympathies of a normally compassionate judge or juror would be aroused, there is no local incentive against nudging the case over the line in favor of, say, a widowed mother of four. However, these hard cases do not stand in isolation: As individual hard cases are nudged across the frontier by sympathetic judges, the frontier itself changes, but only in one direction. The District's strict liability law for certain types of firearms, however, is a new wrinkle in this whole process. Now, instead of an out-of-state defendant being required by local tort law to pay for an injury regardless of fault, tort law is being used to destroy an industry employing thousands of people who are total strangers to the jurisdiction abolishing the industry. This, then, dramatically highlights the most serious problem with current products liability law and shows conclusively why a national products law is necessary.

II

Product liability exposure is one of the most serious long-term problems facing the American economy, but the full dimensions of the problem are as yet only dimly understood by the public. In general, most large American companies have managed to live with current product liability law without going bankrupt or closing plants. But that is because most large American companies manufacture established products with known liability risks and have devised schemes—such as introducing new products off-shore—to keep their product liability exposure in the American market within manageable limits. Thus, the problem for the American economy is not that product liability will bankrupt otherwise solvent American companies, but rather that the defensive actions that American companies are forced to take to protect themselves from product liability exposure will move research, development and American jobs offshore.

Not all segments of American society face the same jeopardy from global competition. Thus, the upper middle class of lawyers, judges, university professors, doctors, and other "professionals" are not subject to having their jobs moved overseas. The District of Columbia is almost a one industry town, and that industry—national government—always takes its salaries, perks and benefits off the top! Skilled and unskilled labor in the private sector, on the other hand, as well as business managers, face constant competition from low cost foreign producers. America, then, is divided into two classes—those for whom America's international competitive position is a life or death issue, and those who are insulated from international competition.

The strength of the Roosevelt administration's New Deal was the breadth of shared economic concerns. Even those who had secure jobs during the 1930's still had parents, brothers, or friends who were out of work. The same broad unity of interest in economic matters does not exist today. Current social stratification produces a leadership class of professionals, journalists and academicians who are both psychologically and geographically removed from the lower middle class of blue collar and clerical workers threatened by foreign competition. Were this not the case, far greater attention would be paid in the media or our product liability law because the big loss from runaway product law is research and development not pursued, new technologies not developed, new products not introduced, market shares not dominated, learning curves not exploited and, most important, new jobs not created.

Draconian product liability rules discourage American companies from introducing new products in the American market until those products have been thoroughly tested abroad. However, if the initial product introduction is to be done, say, in Japan, then it is only intelligent to manufacture the product in Japan initially. Logically, if the manufacturing is to be done in Japan, then the research, development and engineering ought to be done in Japan as well. Inevitably, the product becomes a Japanese product and not an American product. The company doing the manufacturing may be an American company in the sense that it is owned by American shareholders, but the

real wealth—namely the jobs associated with the production of the product and the technical skills acquired by managers and labor force—is owned by the Japanese. Firearms manufacture is a major worldwide industry. One effect, then, of D.C. Act 8–289 will be to encourage firearms manufacturers to relocate abroad.

If you ask the average state judge whether she would like to redistribute some wealth from, say, Colt firearms to a local resident who was severely injured in a shooting accident, the judge will probably answer "yes." But if you ask the same judge to make a choice between high local employment in Colt's plants on the one hand, and redistribution of Colt's money on the other, she is likely to favor high employment over simple wealth redistribution. The problem is that except for the U.S. Supreme Court, no American judge can affect these trade-offs.

If, for example, as a West Virginia judge I insist that West Virginia have conservative product liability law, all I will do is reduce my friends' and neighbors' claims on the existing pool of product liability insurance paid for by consumers through "premiums" incorporated into the price of everything we buy. This is the explicit rationale of Blankenship versus General Motors, 406 S.E.2d 781 (W.Va., 1991). Blankenship adopted the "crashworthiness" doctrine in automobile collision cases in West Virginia. In Blankenship I wrote for a unanimous court:

"[W]e do not claim that our adoption of rules liberal to the plaintiffs comports, necessarily, with some Platonic ideal of perfect justice. Rather, for a tiny state incapable of controlling the direction of the national law in terms of appropriate trade-offs among employment, research, development and compensation for the injured users of products, the adoption of rules liberal to plaintiffs is simple self-defense." 406 S.E.2d at 786.

Thus, as a state judge I have admitted in a unanimous opinion written for the highest court of one of the fifty states that we, as a state court, cannot be rational in the crafting of product liability rules. If this is true of the highest court of a state, it is equally true of the D.C. City Council or a state legislature. No matter, then, how responsible I or the other members of our court want to be as state court judges, we are powerless to improve the overall American product liability system or reduce the exposure of West Virginia manufacturers to the caprice or malice of out-of-state courts, out-of-state juries, and out-of-state legislatures.

By trying unilaterally to make such improvements, we will succeed only in impoverishing our own State's residents without doing anyone, anywhere, any measurable good. Unless we want to be "suckers," as state judges we must immediately incorporate the latest pro-plaintiff wealth redistribution theories applied in other states into West Virginia's decisional law. If we conceive and apply new wealth redistribution theories before anyone else, as the District of Columbia has in enacting D.C. Act 8–289, we can even garner for ourselves more than our fair share of the national product liability insurance pool. Every jurisdiction, then, must ultimately follow the most irresponsible state, or in this instance, the District of Columbia.

III

There is no question that the District of Columbia has a problem with violent crime, but the manufacture of firearms is legal everywhere in the United States under preemptive federal law. All West Virginians have a state constitutional right to own and carry firearms, yet West Virginia has the lowest crime rate in the United States. On the other hand, in the District of Columbia it is illegal to import or own a handgun not used for law enforcement purposes. Consequently, it is difficult to see how any firearms manufacturer could have "minimum contacts" with the District except through selling law enforcement agencies.

Under D.C. Act 8–289, a Connecticut manufacturer who legally produces a gun proscribed by D.C. Act 8–289 and then legally sells it to a West Virginia resident (from whom, perhaps, it is illegally stolen) will be strictly liable for injury done with that weapon in the District. Although an argument can be made that this spreads the risks of inevitable injuries from misused firearms, it makes a mockery of strict liability concepts because this is not a hazard against which manufacturers can insure, nor does the scheme collect the product liability "insurance premium" in the form of higher prices from the same class that either (1) commits the tort, or (2) suffers the injury. Manufacturers will either beat the "minimum contacts" requirement by never setting foot in the District, or go out of business.

No court in Connecticut, therefore, would willingly acquiesce in putting a local firearms manufacturer out of business by enforcing judgments rendered against Connecticut employers in the courts of the District. Given that under D.C. law a gun manufacturer is prohibited from doing business in the District (except when selling to law enforcement agencies), a state court asked to enforce a D.C. judgment against one of its own residents would be surpassingly reluctant to find the "minimum contacts" necessary to justify long arm jurisdiction. In other words, strict liability for manufacturers of certain firearms places an insupportable burden on principles of comity among state courts and stretches the full faith and credit clause to the breaking point.

For that reason, lawsuits filed under D.C. Act 8–289 will invite the U.S. Supreme Court to revisit its holdings on what "minimum contacts" are necessary to justify long arm jurisdiction when a litigant seeks to compel enforcement of a foreign judgment through the U.S. Constitution's full faith and credit clause.

Consequently, it appears to me that if D.C. Act 8–289 is allowed by Congress to stand and is then upheld against constitutional challenge by the courts of the District and the Supreme Court of the United States, we will have recognized finally the Alice in Wonderland nature of America's product liability system. I would predict that after weapons manufacturers, the next target for tort law shutdown will be cigarette manufacturers. After the cigarette manufacturers, states like Idaho and Louisiana may decide to establish strict liability for manufacturers and distributors of specialized medical equipment used in performing abortions. From there the health fascists can make a stab at imposing strict liability on the distributors of red meat.

And at that point the White Rabbit, perhaps in the form of Congress, will come by, look at his watch, and announce that the story is over.

Thank you Mr. Chairman.

RICHARD NEELY, WEST VIRGINIA SUPREME COURT OF APPEALS

CURRICULUM VITAE

Education: A.B. Economics, Dartmouth College, 1964 LL.B. Yale Law School, 1967.

Military: Captain, U.S. Army Artillery, 1967–69. Served on the personal staff of John Paul Vann in Republic of Vietnam, 1968–69; author of the economic development portion of the 1969 pacification plan. Awarded Bronze Star.

Business and professional: Practiced law alone in Fairmont, W. Va., 1969–73. Chairman of the Board of Kane & Keyser Hardware Corp., Belington, W. Va., 1970–1988. General Partner in Forest Festival Terrace, a West Virginia real estate holding company.

Government: Elected to the West Virginia House of Delegates for the 1971–73 term from Marion County. Elected state-wide to the West Virginia Supreme Court of Appeals in 1972 for a twelve-year term. Reelected to a full term in 1984. Chief Justice of the West Virginia Supreme Court of Appeals, 1980–81, 1985–86, 1990–91. This is West Virginia's highest court with administrative responsibility for all lower courts.

Major publications: "How Courts Govern America," Yale University Press (New Haven and London, 1981); "Why Courts Don't Work," McGraw-Hill (New York, 1983); "The Divorce Decision," McGraw-Hill (New York, 1984); "Judicial Jeopardy: When Business Collides With the Courts" (Addison-Wesley, 1986); "The Product Liability Mess," The Free Press (New York, 1988); "Take Back Your Neighborhood: A Case for Modern-day 'Vigilantism,'" Donald I. Fine, Inc. (New York, 1990); "The Politics of Crime," The Atlantic Monthly, (cover story) August 1982, pp. 27–31; "The Primary Caretaker Parent Rule: Child Custody and the Dynamics of Greed," 3 Yale Law and Policy Review, p. 168, (1985); "Why Wage-Price Guidelines Failed: A General Theory of the Second Best Approach to Inflation Control." 79 W. Va. Law Review 1, (1976).

Academic: Professor Economics, University of Charleston, Charleston, West Virginia, 1979–90; Frederick William Atherton Lecturer, Harvard University, 1982–83; Visiting Professor of Law, Fudan University, Shanghai, People's Republic of China, 1984.

Mr. SMITH. Mr. President, this brings us to the fourth principal problem with the D.C. law. It is unconstitutional, pure and simple. It is unconstitutional. Sometimes that does not matter around here, but it is unconstitutional. It is an effort by a local jurisdiction to bring a halt to interstate commerce in a particular commodity. That is what it is, pure and simple.

Let there be no mistake about the objective of this legislation. It is not to regulate guns. The objective is to eliminate the manufacture and distribution of an entire class of guns, and ultimately of all classes of guns. D.C. Councilman William Lightfoot admitted this when he said:

It would seem that the merchants of death—and that's what they are, they are merchants of death, the people that manufacture these guns, distribute these guns and sell these guns are merchants of death. * * * It is time they no longer earned money and income from sales of these weapons. We cannot allow them to roam free in our society.

Honest, hard-working manufacturers and distributors, men and women across this country who produce weapons, are now merchants of death because somebody misuses that weapon and commits a crime. Has it really come to that, Mr. President?

Fortunately, neither the Constitution's commerce clause nor D.C.'s home rule charter permit the District of Columbia to regulate commerce between the States. As recently as last January, the Supreme Court reiterated this reading of the commerce clause in its decision Wyoming versus Oklahoma.

Now, Mr. President, I understand that there are many who are concerned about the rights of the District of Columbia under the Home Rule Act, and I share this concern. Traditionally, however, the committees of jurisdiction have applied a three-fold test which has allowed them to overturn a D.C. enactment if that enactment were, first, unconstitutional; second, a violation of the D.C. home rule charter; or third, an impingement on a Federal interest.

Mr. President, the D.C. gun liability law is an unconstitutional violation of the commerce clause. It violates the D.C. home rule charter which limits the District's jurisdiction to legislation dealing with the District's own affairs. This goes far beyond the District's own affairs. It interferes with Virginia. It interferes with New Hampshire, with Georgia, with South Carolina. It interferes with every State in the Union by telling a manufacturer he cannot manufacture or distribute a gun. Finally, it impinges on a Federal interest because it threatens to cut off the supply of weapons to Federal law enforcement agencies.

And you have heard it in the words of the people who sell and produce those weapons, that they would not feel they could do that without the risk of a lawsuit.

Mr. President, the District does have a serious crime problem. We all know that. But serious problems, however severe, do not justify unconstitutional and counterproductive legislation.

The crime problems in the District of Columbia should be dealt with by punishing the people who misuse the weapon.

Mr. President, at this time, unless there is further—there is further debate.

I urge adoption of my amendment, and at some point in the debate, Mr. President, I am going to ask for the yeas and nays.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois [Mr. SIMON].

Mr. SIMON. Mr. President, first of all, I think the Senator from New Hampshire has made a powerful argument why we ought to make the District of Columbia a State—so we do not try to handle every little iota of legislation. I think he probably is correct when he says this bill is unconstitutional.

But, Mr. President, I rise for another reason. I make a point of order that this is legislating on an appropriations bill, and I ask the Chair to rule on a point of order.

The PRESIDING OFFICER. The amendment by the Senator from New Hampshire, number 2752, constitutes legislation on an appropriations bill. It repeals existing law. The point of order is sustained.

Mr. SMITH. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there debate on the appeal of the ruling of the Chair?

Mr. HOLLINGS. Mr. President, I did my best to persuade the distinguished Senator from New Hampshire that this was not good procedure on this particular bill. I happen to agree with the substance of the argument of the Senator from New Hampshire relative to the little ordinance that they have down here in the District of Columbia, and for the many reasons as outlined by the distinguished Senator. But I was unable to persuade him. Unfortunately, now we get to the point of order. I could not assure him on the contrary.

I was assuring him that in all probability this could not be held in our conference because it belongs on the District bill and not the State, Justice, Commerce. I think, as the manager of the bill, I should make a record to that particular effect. While I am agreeing with the substance, I have to disagree with the procedure itself.

The PRESIDING OFFICER. Is there further debate? If not, the question is, shall the decision of the Chair stand as the judgment of the Senate? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I will just take 3 minutes. The point is, first of all, that we are legislating on an appropriations bill. Unless it is an extreme situation, it is something the Senate ought to avoid. The Chair's ruling is a proper ruling, and the Senate should sustain the Chair on this.

But there is a second issue here; that is, we are dealing with something that is taking place by action of the City Council of the District of Columbia. If it is unconstitutional, the place to deal with that—I happen to think it probably is unconstitutional—is in the courts, not on the floor of the U.S. Senate. If the State of New Hampshire passes a bill that I believe is unconstitutional, I do not come into the U.S. Senate and offer an amendment to negate the action taken in the State of New Hampshire.

If we believe in home rule here, let us let the District of Columbia run its affairs. The Senator from New Hampshire has made, through his motion, a powerful argument for statehood for the District of Columbia. I assume, after that eloquent statement, that he will support statehood for the District of Columbia. But the way we settle constitutional disputes is in the courts, not to come in here with amendments on appropriations bills. The procedure is completely flawed.

So I made my point of order.

Mr. President, if no one seeks—I see my respected colleague from Idaho seeking the floor. I am sure he will agree with me 100 percent. So I will yield the floor to my colleague from Idaho.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. President, I hate to disappoint the Senator from Illinois. On this issue, I do not agree with him. I say so because I am one of those who recognizes this city as a Federal city. But it is also a city that I think has been tremendously irresponsible in the management of a problem that plagues all who reside here and that victimizes on a daily basis the citizens who live here as citizens of the District and who are law-abiding.

Of course, that is the crime that goes on in the city relatively unchecked. Yet, we see a city council who would pass legislation of a kind that my colleague, Senator SMITH, has recognized as unconstitutional and, at best, foolhardy. I do not know of any other way to explain this kind of legislation, the Assault Weapon Manufacturing Strict Liability Act of 1990.

I am not a lawyer, Mr. President, but I have read the comments of the American Tort Reform Association, and some of the leading tort lawyers in America speak to this and say, the longstanding principles of tort law, the principles, are based on our commonsense understanding of responsibility. When someone misuses a product or deliberately uses it to cause harm, tort law does not absolve the user of the responsibility. More importantly, then, responsible legislators and city council persons ought not try to absolve them by pushing this responsibility off on someone else as they have attempted to do here in the District of Columbia.

I in no way in my comments on this amendment attempt to downplay the crisis of violence that is occurring in this city. It is, without any other definition, that and that alone.

But the mentality that suggests, as this city council has for too many

years, that the criminal is not the problem and that the criminal is innocent of the act, that for some reason it is the instrument of the criminal that is evil and not the act or the criminal itself, I suggest, by my earlier words, that that is, by some stretch of the imagination, foolhardy at best.

Our society, for a long time, has suggested that when someone perpetrates an act of violence, by that very action, they are the criminal, they are responsible. This city council and this city suggests otherwise, and this law of the city, if you will, the law of the city that my colleague, BOB SMITH, is attempting to suggest in this legislation is unconstitutional and would be outlawed by this amendment, is most appropriately spoken to.

I support the amendment. I hope to vote against the ruling of the Chair so that we can complete the debate on this and do as I think we ought to responsibly do when we see an act that we believe to be clearly unconstitutional. Speak to it and speak to it with our votes.

That concludes my comments. I yield the remainder of my time.

Mr. ADAMS. Mr. President, I am absolutely appalled by this amendment, and I hope that the point of order of my colleague from Illinois will be sustained. It should be.

It should be sustained first on the principle that has been enunciated by the Senator from South Carolina so well, Senator HOLLINGS, that this is an appropriations bill, and this type of legislation should not be put on an appropriation bill. We should be dealing with money matters and this is a highly substantive matter. That alone should be enough to defeat the amendment, regardless of how you feel about it on the merits.

The second point is that we have a committee, and if they wish to take these matters before them, it is available. There is a Senate committee that handles District matters, the Committee on Governmental Affairs, and a House District of Columbia Committee that has a certain type of jurisdiction, and if they wish to put a substantive piece of legislation forth, let them go to Senator SASSER and to the House side and do it.

The third point which is involved—I happen to be the subcommittee chairman of the D.C. Appropriations Subcommittee, and I would be fighting this the same way on the D.C. appropriations bill for the same reasons—is that these appropriations bills have special privilege status, and they are to be honored in that status by not being laden with legislation of this type.

Finally, I want to discuss substance itself. There have been some comments made here that to me are absolutely appalling, which is that a weapon, an automatic or semiautomatic weapon, an AK–47, a street sweeper, the Colt equivalent, an Uzi, these weapons should be protected under the general statement that a product used for its purpose should be allowed to move in interstate commerce freely.

That is preposterous. It has never been upheld by the Supreme Court of the United States. Things that are dangerous can be kept out of interstate commerce. I can say that as a former Secretary of Transportation and former chairman of the Constitutional Law Committee that drafted the home rule charter for the District of Columbia. Yes, I was one of those original authors of the home rule charter. It is true there is a divided jurisdiction, because the Constitution of the United States says that the Congress of the United States shall have jurisdiction over those areas that have been set aside for congressional action.

I think what has happened today has been the opening gun—it certainly changed my viewpoint—of let us have statehood for the District of Columbia and just a Federal enclave. We began by saying we would have home rule, and the District would enact its own legislation, and in their own way, Congress would keep its hands off the city, and we would make our payments for the use and assistance the District gives both in land and in personnel for the Federal presence.

But if we are going to have these arguments, which no State would ever accept, maybe because we happen to have some jurisdiction over the District of Columbia, and we have to fight that, I guess the one way is through statehood. I did not used to take that position. I felt we should have the Federal presence.

Let us go to the deep merits of this matter. There is a particular reason. I was appalled to hear it stated that people in the District of Columbia, the District Council, and the Mayor's office, favor the criminal rather than the instrument that was involved. They have placed people in jail to the point of overflowing—not only all the jails and prisons here, but they have rented space throughout the United States, including in my State, to put people in jail.

We have some of the strictest preventive detention laws on bail in this area of anyplace in the United States. We have literally been faced with an overwhelming attack by two things in this city since the invention of crack. As a former U.S. attorney, I am going to comment on that. I mentioned what I have done, so that it is not that I am just up here spouting that I have a theory about this.

Cocaine used to be—I say used to be—a very expensive, high-quality habit, and you had to fight it by means of certain detection devices and trying to arrest the kingpin and so on. With the invention of crack about 4 years ago—which is simply a baked cocaine product that is cracked later into small nugget like stones—the price of this product dropped dramatically from $200 or $300 a dosage to where people could buy rocks for $5, $10, $15 apiece. It changed the whole complexion of what was happening in this city and many other cities.

I will take just this city, because it goes to the merits of why they passed this law and why we should not interfere with this law.

What happened at that point was these little rocks became incredibly valuable. They give an immediate high and a very cheap way of obtaining it. So it moved out among the kids and among the teenagers, and gangs began to move in—Haitians, Jamaicans, those from New York—overwhelming the local communities and hiring local kids to do all kinds of things, because the product now is a street product. It was not a product that was dealing in high society. It was a product that was dealing on every street corner. It is what you see and hear about now with these terrible homicides we have in this city.

As many of you know, I personally directed my attention to this when we held the subcommittee hearings and had lengthy discussions with the Mayor and with the public, on that we have to stop these homicides. She has moved on this. But there are only two ways you can move on it. The two ways you move on this are: One, you have to put police presence in the whole area, and they are now up to nearly 5,000 policemen. These have to be quality policemen—put people on corners, not driving by in cars anymore. They have to be involved in the community, because the community is saturated with this drug. This drug leads to enormous highs and to enormous activity.

The second part of the problem is not just the individuals, but the weapons that they use. We just had people convicted here of these drive-by killings, and what is involved in that? It is the use of these kinds of weapons. My God, nobody in law enforcement that I know in the United States—I have discussed this at length with our chief of police—wants to have these kinds of weapons on the street. An Uzi, AK–47, and street sweeper, are all combat weapons.

As the occupant of the Chair at the present time, who is a veteran, knows, these weapons are dangerous in the jungle, and they are fired at will with indiscriminate spraying of bullets. What happens in the city when these weapons come into the city is that they are fired often by kids. When I am saying kids, I am talking about 13, 14, 15 year olds. When they fire down these blocks, people are killed indiscriminately in cross fires.

That is the merits of this. That is why they passed it. It was not protected criminals. They were trying to find a way to keep manufacturers from

putting these weapons into the stream of trade, so they got it into the hands of the people in this city. We cannot pass a national gun law that requires people to register or to control these weapons, so they had to try to make people liable.

I hope that the manufacturers in the United States do not sell these weapons. I hope they do not sell them on the streets. If you worry about law enforcement, we will pass a law for it, and if we cannot, we will let them buy it directly abroad.

For God's sake, keep these out of the stream of commerce. We have just had not only the stream of commerce being involved, where these weapons could be moved, but they now also are being stolen directly out of UPS vans. When you see these weapons, you will begin to understand when you can put a clip of 26 at the bottom and spray the street with it, that you are not dealing with a standard item of commerce.

So I am talking about the merits of this matter. If this matter is going to be debated, we should debate it at length, and we will debate in on its constitutional basis, and on the powers of the District of Columbia. We will debate it on any basis that the Senator from New Hampshire wishes to, or the Senator from Idaho. But this should not be tacked on at 5 o'clock in the afternoon to a Commerce, Justice appropriations bill—and I sit on that subcommittee, where we have had no prior warning of the fact that this was going to be a major debate on this.

We should get it out of here on a point of order and then the Senator can bring it up in any form he wants and we will argue it. The bottom line that is going to come down on this matter is the fact are we going to allow in our major cities weapons of combat construction to be handled by everybody. It is bad enough when somebody has a 6-shot revolver or has a clip automatic. And I know the Senator in the chair and myself have both fired all kinds of these weapons.

I even fired a Thompson 38 machine gun. And I would not ever, ever want anybody in my family or any family that I know to ever have one of those anywhere close to them. They are not accurate. They take great skill to keep them anywhere under control. You start at the bottom of the target and move up across it. It throws out shells over a wide area. People are in danger up to a quarter of a mile from the explosions from it.

And the new sophisticated weapons are so much, much more dangerous. The reason they call it the street sweeper is because it is like a garden hose with bullets. You just sweep a whole area.

We just had a woman killed in a car. Two people were going by. She was not involved with anybody. She was caught in a crossfire. Maybe she would have had half a chance if they were using a revolver or automatic. If they are using an automatic weapon, a weapon with such power that is used in combat by the U.S. military, they do not stand a chance. Kids do not stand a chance. Kids are on a front porch. A little old lady, was shot sitting on her front porch.

I am appalled at anybody not wanting to shut these off.

What did the District do? These are my final comments. I hope the Senator from South Carolina and Senator from Illinois, and others, will join in. What they tried to do was this: They could not get a national gun law passed. There is a gun law in the District of Columbia, but it does not do any good, because weapons flow in from Virginia, Maryland, New York, every place in the country, they flow into the District, because they can be paid for in drugs.

The last deal that was made in the UPS case that is just being tried now was a swapping of drugs for guns, to bring guns into the District, bring drugs out of the District. They even raided police stations and stole weapons to swap for guns to become part of the drug trade. What the citizens of the District tried to say, and I think it was a valid attempt and I hope it works, was to say if you manufacture these weapons, you darn well better see who has them and who is using them. If law enforcement has them or legitimate gun clubs, and you know where they are, you are not going to be held liable. But if you have allowed these to go indiscriminately out in interstate you are liable for the effect of them. You are liable for what happens. And that to me was the only way they had left to try to control these weapons.

So instead of criticizing the District, instead of trying to do away with it, we should be trying to support them, support them in their efforts to get more police officers on the street, have them be on the street, and get rid of this artillery that is out there on the streets. I have suggested, for example, to the mayor that she try to recruit people out of the military as they are being discharged from MP units for the Metropolitan Police Department, and put them on the street corners. Imagine how they are going to feel if they are on the street corner armed at best with a 9-millimeter, probably with a short-barreled .38, and somebody is coming down the street with an AK-47 or with a Uzi, or with a street sweeper.

This is an incredible thing. And I do not know a police department in the United States that does not say: Get rid of these guns. Get them off the streets. Get them off the streets.

If the NRA wants to put out ads, fine. Let them put out ads, but let us beat them on this. I mean, there is a great, great difference between hunting rifles, pistols—all of us have used these—and a street sweeper. I sent my boys down to learn how from the NRA to be certain they fired a .22 in a correct manner, and so on. I do not have an ideological feeling that we should not be able to see a weapon or deal with a weapon. I just think if I can register my car and I can register my dog, I can register my guns, because if you do not you will never find them. You will never find them when stolen. You will never find them when they are out in trade, and never be able to help solve the burglaries and the killings in this city by being able to trace the weapon.

The same responsibility should go to the manufacturers. I would be very pleased to see these manufacturers cause all their weapons to be traced, or not sell them at all except to the military or to police departments.

Those are the merits of this matter. That is why the District of Columbia passed this. They did not pass it for some extraneous reason. They passed it because they could not think of any other way to keep the guns out of the District. It may not be successful, but it is a step forward. They should be commended for it. And I hope they will be commended for it. I hope that this law will stay in place, and I hope that we will stop having these weapons on the street.

If the Senator from New Hampshire, the Senator from Idaho, or anybody else can tell me a way, a system, of getting these automatic weapons off these streets other than through this kind of system, fine, let us pass it. We tried to pass a gun registration law. We tried to pass a waiting period law. We tried to pass a prohibition law. Now we will try to pass a manufacturer's liability law.

I do not think that ought to be on this bill. Let us get it out of here.

Let us get it before the Congress and let us debate. The chairman has been very patient in listening to my comments. I agree with the chairman. I do not think it ought to be on this bill. The chairman and I may be on different sides when it comes to the merits. Let us keep it out of the appropriations process and debate it fully with these Senators when they put it on a bill that is an appropriate bill, and we will debate whether or not people should be doing this and how they should be doing it.

I am pleased now to yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from New Hampshire.

Mr. SMITH. Mr. President, I am sorry my colleague from Washington is appalled. I am frankly appalled at the law. And the issue here is far more than guns. First of all, as the Senator from Washington knows, the D.C. gun control bill was passed in 1976, and every year since, murder has gone up with guns, so I do not see where the connection makes a lot of sense to me.

If the crime keeps going up where is the effectiveness of the law that the Senator talks about?

Mr. ADAMS. Mr. President, will the Senator yield on that point?

Mr. SMITH. I yield.

Mr. ADAMS. New York has a gun law and so does the District of Columbia. I will tell the Senator what the problem is. Because you cannot get a national gun law, all of these guns that are being used are ones that are coming from across the border from another State and other States where they manufacture these and have no control of it and they cannot stop them. If you do not stop interstate commerce they will continue pouring through.

I suggest to the Senator the case was just this week. It was on television last night about the UPS truck carrying all these weapons. There is an interstate problem.

Gun laws are only effective if you can make them effective where they are manufactured and where they are being shipped and sold. They are not being shipped and sold within the District.

Mr. SMITH. If I could just reclaim my time, the issue is not putting undue burden on those honest individuals throughout America who manufacture a product. It is what somebody does with the product when they get it in their hands. The issue is those people behind the weapon who commit the murder ought to be put away with mandated sentences so they do not get back out on the street to kill people again. That is where the problem is, and the Senator knows that.

We kill 58,000 people a year in automobiles. Do we want to ban all automobiles in America? How about when a baseball player swings a bat and hits someone in the stands and unfortunately kills him? Should we ban baseball bats so the player will come up to the plate without a bat?

Nobody mentioned knives in here. Guns are not the only things that kill people. It is the person behind the weapon that does the killing. It is a copout, and we all know it.

That is what the problem is bringing in the NRA. The NRA is not the issue. The issue is crime in this country. And the issue is whether or not we have the guts to put the people who commit the crimes off the streets, away from the innocent victims. That is the issue.

Mr. President, I wanted to briefly respond to District home rule and then I will yield the floor and be prepared to vote on the point of order.

Mr. President, a lot has been made here in remarks by Senator ADAMS and others about District home rule as an important consideration. It is not more important than the Constitution of the United States. We are not talking about only home rule in Washington, DC. This law that was passed in Washington, DC, interferes with the home rule in New Hampshire, Virginia, Florida, South Carolina, and every State in the Union, because it says that a manufacturer who produces a product is going to be liable if in fact that product is used to commit a crime.

And as I said in my opening remarks, this will have a negative effect on police, law enforcement individuals in the District of Columbia, because those manufacturers and distributors, because of the risk of liability, will not in fact sell those products to the law enforcement people and they have stated so, and I indicate that for the record.

Let me just quickly say, Mr. President, committees with jurisdiction over D.C. affairs, as I said, have applied this threefold test. The first is, is it constitutional? The second is, is it consistent with the Home Rule Act? And, third, does it interfere with a Federal interest?

Most tort scholars, as I stated, and many others, believe that the D.C. gun liability law is unconstitutional. Pure and simple, if it is unconstitutional, then it ought not to be the law. It is not law by definition.

As recently as last January, the Supreme Court overturned an Oklahoma enactment which made only minor impositions on interstate commerce in natural gas. Surely, the D.C. gun liability bill, which attempts to ban interstate commerce in an entire commodity, would run afoul of the same commerce clause prohibitions.

The D.C. gun liability also violates the home rule act, which limits the scope of the District's jurisdiction to issues of local concern. Earlier this Congress, the Senate passed, by unanimous consent, and the President signed legislation to overturn a D.C. enactment concerning the height of a building proposed to be constructed in the vicinity of the FBI headquarters on the basis that that enactment contravened the home rule charter.

Finally, the D.C. gun liability law impinges on a Federal interest because it forces gun manufacturers to cease doing business with Federal law enforcement offices located in the District. Among the Federal agencies which might be affected, as I indicated, are the FBI, the Capitol Police, Secret Service, and on and on. Surely, those of us in this body would not like to see that happen.

For all these reasons, I hope that my amendment will pass.

As of now, as I understand it, Mr. President, we do have a point of order raised, and I believe that that is the issue before the Senate.

At this time, I yield back my time.

Mr. ADAMS. Mr. President, this amendment would deprive the citizens of the District of Columbia their right—their right—of initiative. What the Senator's amendment seeks to do is to repeal a law that more than three-quarters of the district's voters said ought to be the law in this city. The initiative that they adopted provides that a manufacturer, importer, or dealer of assault weapons would be held strictly liable for damages that result from the use of the assault weapon in the District of Columbia. Let us make no mistake, this amendment is not about whether or not the letter of the law is constitutional, only a court can decide that. It is not about whether District citizens were within their rights to enact such a provision, the Home Rule Act grants them that right. It is about democracy. It is about whether U.S. citizens dare enact legislation that some in the Congress may disagree with.

It is about whether this body is going to take away from the citizens of the District the right to fight back against violence that takes the lives of the innocent as well as the guilty. We are all aware of the drugs and violence that grip the streets of our cities, including Washington, DC. We know that we have added more police, more drug treatment beds, more prisons, but the carnage continues. Is it any wonder that the people who live with this chaos would look to any measure that might relieve their suffering?

We can share their frustration. We can share their outrage.

However, we do not live where they live. We do not walk where they walk. We do not grieve where they grieve. We do not suffer the loss that they suffer. How can we decide what measures they should choose?

I can not make the case more eloquent than Rev. Beecher Hicks, of the Metropolitan Baptist Church, did before the House District Committee on November 21, 1991. Reverend Hicks is the chairman of the committee for strict liability. In his testimony he stated:

> Our position * * * is based on a position which we believe is ethically correct and morally just. We have been to too many emergency rooms, we have held too many hands, we have carried too many messages of bad news, and we have preached too many funerals. * * * Those who oppose the will of the people must live where we live and experience what we experience before they choose bullets over bodies and weaponry over humanity.

It may be that it is ill advised. It may be that this law is unconstitutional. But it is not for us to decide. The citizens, the government, and the courts of the District will decide those issues. For now 77 percent of the voters on November 5 have decided that this measure must be tried to stop the bloodshed in this city. It is the grossest act of cynicism to invalidate their franchise.

It is said that this legislation reaches beyond the District to effectively ban assault weapons nationwide. That seems to be an overly broad claim by the initiative's opponents. If there is any truth in that assertion then the courts will strike it down or the legislature will modify it.

Mr. President, there were countless initiatives passed across the country last election day. Many that every Member of this body could not vote for. However, we are not asked to vote on those that don't appear on the ballot outside our States, except when it comes to the Nation's Capital. We happen to work here so we hear about those that the local citizens initiate. Those citizens have no Senator in this body to speak for them so some feel compelled to second guess them. I urge my colleagues to guard the democratic prerogatives of the citizens of the District of Columbia just as ardently as they would those of the citizens of their own State. That is why we are called U.S. Senators.

If it is the will of this body to prohibit such local provisions the proper way to do it is to enact legislation to ban such provisions nationwide, not to invalidate the will of 77 percent of the citizens of the District of Columbia.

Mr. President, in closing I again want to share the words of Reverend Hicks with my colleagues, he said that:

> The referendum passed by the citizens of the District of Columbia, who have little voice and no vote at all within these walls, is not only morally just, it is the only reasonable response to an unreasonable and unacceptable situation. The Congress must not use the repeal of this referendum as a means of further extracting from the citizens of the District the privilege of self-determination which is theirs by right and by law.

Mr. President, I hope that everyone will vote in support of the ruling of the Chair which is that this amendment is out of order in this bill. The vote is yes.

I want at this time to say that when the Senator said that this was something that involved the District reaching out or doing something foolish, this came from an initiative of the citizens. Seventy-seven percent of the people in this District voted by initiative to try to stop the killing in the District.

You have a very simple vote. Vote to support the Chair, and you support people who are out on the streets endangering their lives, trying to keep from being killed. Vote to overturn it—in other words, voting no—means that you are voting with the gun manufacturers of the United States, and they can send their guns elsewhere.

So I hope that the Members will vote to support the ruling of the Chair, which is to vote "aye."

Mr. President, I ask unanimous consent that a statement by CRS that there are no provisions in the House Rule Act that appear to preclude enactment of the gun manufacturers liability statute, and an editorial from the Washington Post of November 21, 1991, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From CRS]

HOME RULE

Section 302 of the Home Rule Act states, in relevant part, that "* * * the legislative power of the District shall extend to all rightful subjects of legislation within the District consistent with the Constitution of the United States and the provisions of this Act.* * *"

No provisions in the Home Rule Act appear to preclude enactment of the gun manufacturers liability statute.

[From the Washington Post, November 21, 1991]

CONGRESS AND D.C. GUN LIABILITY

This morning the House District Committee will consider yet another act of intervention in the District's affairs—a bill that would repeal an action just taken by a good 77 percent of the voters of this city. The D.C. vote, an expression of desperation on the part of a city where gunfire is mowing down young and old day and night, was to hold manufacturers, importers and dealers of assault weapons liable for all injuries inflicted by certain assault weapons. The Congressional reaction—a bill introduced even before the polls closed on Nov. 5—would summarily dismiss the will of the voters. In its place would be the will of the NRA and its paid politicians on the Hill.

The only hope of letting the vote stand is a vote in Congress to kill the repeal bill. Any House District Committee member who has any respect for local self-determination in this country should vote to reject the repeal bill.

One of the arguments of the NRA Semiautomatic/Multiround Magazine Pushers is that the D.C. law stretches well beyond the city limits in its impact—which it does. It is a long reach for one city to wipe out the making and marketing of weapons considered legal elsewhere. And no doubt this aspect will undergo some court test. But the message of the ministers and families who led the campaign for the liability bill was—and still is—that the industries that supply these weapons of immorality that are made to kill people should bear the costs of their decisions to market such a deadly line of products.

Why not let a local law, supported by the local electorate, stand on its own—as it would if it were enacted in any other locality in the country? Or is this particular American city destined to remain forever the Last Colony?

Mr. KOHL. President, I do not endorse the D.C. law which holds the manufacturers of guns responsible for any injury caused by the weapons they produce. Actually, I think it is an unwise approach to the problem. If legislation along those lines were offered as a Federal policy, I would vote against it.

But that policy question is not before us now. What is before us is a simple question: Is the Smith amendment legislation on an appropriation bill and therefore a violation of the Senate rules? The answer to that question is yes. And, as a result, I will vote to sustain the ruling of the Chair.

I do, however, want to make one additional point, Mr. President. I find this situation ironic. In 20 minutes we can overturn a gun control law adopted by the District of Columbia. But over the last 20 years we have not been able to adopt Federal gun control legislation.

I was involved in shaping the compromise on the Brady Bill which this Senate approved last year as part of the crime bill. Ever since the crime bill fell victim to a Republican filibuster, I have been suggesting that we at least move on the Brady bill. But I am always told that we can not. It would be filibustered or vetoed by the President unless it was part of a larger crime bill. There is, Mr. President, something strange about a system which can overturn one city's effort—no matter how unwise—to enact gun control but, at the same time, be totally unwilling to consider the kind of gun control law which would make sense for the entire nation.

The PRESIDING OFFICER. Is there further debate? Is there further debate?

If not, the question before the Senate is, Does the decision of the Chair stand as the judgment of the Senate?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DIXON. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Nevada [Mr. BRYAN], the Senator from North Dakota [Mr. BURDICK], the Senator from Kentucky [Mr. FORD], the Senator from Georgia [Mr. FOWLER], the Senator from Ohio [Mr. GLENN], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. INOUYE], the Senator from North Carolina [Mr. SANFORD], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from New York [Mr. D'AMATO], the Senator from Utah [Mr. GARN], the Senator from Wisconsin [Mr. KASTEN], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from New York [Mr. D'AMATO], the Senator from North Carolina [Mr. HELMS], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Alaska [Mr. MURKOWSKI] would each vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 32, nays 50, as follows:

[Rollcall Vote No. 152 Leg.]

YEAS—32

Adams	Chafee	Jeffords
Akaka	Cranston	Kennedy
Bentsen	Dixon	Kerrey
Biden	Exon	Kerry
Boren	Graham	Kohl
Byrd	Harkin	Lautenberg

Leahy	Moynihan	Sarbanes
Levin	Pell	Simon
Metzenbaum	Riegle	Wellstone
Mikulski	Robb	Wofford
Mitchell	Rockefeller	

NAYS—50

Baucus	Durenberger	Packwood
Bingaman	Gorton	Pressler
Breaux	Gramm	Pryor
Brown	Grassley	Reid
Bumpers	Hatch	Roth
Burns	Hatfield	Rudman
Coats	Heflin	Sasser
Cochran	Hollings	Seymour
Cohen	Johnston	Shelby
Conrad	Kassebaum	Simpson
Craig	Lieberman	Smith
Danforth	Lott	Stevens
Daschle	Lugar	Symms
DeConcini	Mack	Thurmond
Dodd	McConnell	Wallop
Dole	Nickles	Warner
Domenici	Nunn	

NOT VOTING—18

Bond	Fowler	Kasten
Bradley	Garn	McCain
Bryan	Glenn	Murkowski
Burdick	Gore	Sanford
D'Amato	Helms	Specter
Ford	Inouye	Wirth

So the decision of the Chair was overruled.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 2753 TO AMENDMENT NO. 2752

(Purpose: To restore the second amendment rights of all Americans)

Mr. DOLE. Mr. President, I send a second-degree amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 2753 to amendment No. 2752.

In lieu of the matter proposed to be inserted, insert the following:

"The Assault Weapon Manufacturing Strict Liability Act of 1990 (D.C. Act 8-289, signed by the Mayor of the District of Columbia on December 17, 1990) is hereby repealed, and any provisions of law amended or repealed by such Act are restored or revived as if such Act had not been enacted. The provisions of the preceding sentence shall take effect one day following enactment.".

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I might just explain the amendment. It just says it is effective 1 day after enactment instead of day of enactment.

The PRESIDING OFFICER. Is there debate?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, my understanding is that upon adoption of this amendment the amendment would thereafter be open to amendment?

The PRESIDING OFFICER. Will the Senator withhold?

The amendment offered by the minority leader is a substitute amendment, and therefore its adoption would render it no longer amendable.

Mr. METZENBAUM. Mr. President, I am not prepared to vote on this amendment.

The PRESIDING OFFICER. Does the Senator from Ohio seek recognition?

Mr. METZENBAUM. I do.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, Members of this body, we sure go out of our way to accommodate the American people who have very little respect for the Members of Congress.

This amendment has no other purpose than our moving in and telling the people of Washington who have no representation in the Congress—or no real representation as far as voting rights are concerned—that some piece of legislation that was enacted by their city council is no longer valid; it is no longer applicable.

To me, I think it is absurd. In a community of about 750,000 people; they have no senatorial representation, they have no congressional representation as far as voting rights are concerned. We come along and tell them that an act that that body put into law we are going to undo.

What is so terrible about what they did? I think maybe we ought to talk about what it is that we are really trying to do. Let us take a look at the act that the Council of the District of Columbia put into effect.

First of all, there were a certain number of findings.

The Council finds that: (1) The incidents of criminal use of assault weapons are increasing nationwide and in the District of Columbia ("District");

(2) Assault weapons include both automatic and semi-automatic weapons and include some handguns and rifles;

(3) In 1976, the District recognized that handguns and machine guns (including, by definition, assault weapons) and the manufacture, sale, or importation of handguns and machine guns were abnormally and unreasonably dangerous, and, in an effort to reduce the risk associated with them, banned the further manufacture, sale, and importation, or limited the further possession of these weapons;

Does anybody really take issue with anything that the council stated to that point?

(4) For 11 years (1976-1987) after the enactment of the ban on the manufacture, sale, or importation of handguns and machine guns (including, by definition, assault weapons) and of the limits on their possession, the number of homicides by these weapons declined in comparison to the number of homicides in the District committed by these weapons in the years before enactment of the ban and limits;

Would anybody not want to be for that?

(5) In 1988, there were 372 homicides in the District—a 27% increase over the 1987 rate;

(6) In 1989, there were 438 homicides in the District, an 18% increase over the 1988 rate;

(7) In 1990 (through December 6), there have been 447 homicides in the District;

Which is a number substantially in excess of the 1989 figure, plus the fact that it was only as of December 6.

The ordinance want on to say:

(8) In the past 15 years, both before and after the enactment of the District's ban on the sale or distribution of handguns and machine guns (including, by definition, assault weapons), the number of justifiable homicides by these weapons has never exceeded 6 per year while the number of homicides by these weapons has never been less than 75 per year;

(9) According to the Metropolitan Police Department, the increase in homicides in the District has been accompanied by a proliferation of use of assault weapons (i.e., automatic and semi-automatic guns) in the community;

(10) Semi-automatic handguns represent a growing percentage of the handguns recovered by the Metropolitan Police Department—growing from 46% (1072 of 2,333) in 1989 to 50% (1108 of 2,228) in 1990 (Statistics for 1990 are through December 6).

The Metropolitan Police Department advises there has been a similar increase of percentage of semiautomatic handguns involved in handgun crime;

(11) In 1988, because of the number of assault weapons seized by the Metropolitan Police Department, the Metropolitan Police Department purchased semiautomatic pistols for the Metropolitan Police Department to replace the service revolvers used by the force," so they escalated the amount of military or semiautomatic weapons, guns, that could be used, first of all, by the criminals or alleged criminals, and then by the police department.

(12) Assault weapons, and the manufacture and distribution of assault weapons are abnormally and unreasonably dangerous, and pose risks to the citizens of and visitors to the District, which far outweighs any benefits that assault weapons may bring;

(13) It is foreseeable by manufacturers and distributors of assault weapons that the criminal or accidental use of assault weapons will cause injury and death;

(14) The manufacture and distribution of assault weapons are among the proximate causes of the rising number of homicides in the District, exposing the citizens and visitors to the District to a high degree of risk of serious harm.

So as a consequence, the City Council was trying to do something about it. There are more semiautomatic weapons coming in. There are more being used. There are more homicides in the District, and the District is trying to do something about it. The amount of crime in the District is an embarrassment not only to the people who live in the District but to Members of Congress as well.

(15) As between the manufacturer or dealer of an assault weapon on the one hand and the innocent victim of the discharge of an assault weapon on the other hand, the manufacturer or dealer is more at fault than the victim.

The bill then goes on with a list of definitions, which I will not read. Then it goes on to liability.

Any manufacturer, importer, or dealer of an assault weapon shall be held strictly liable in tort, without regard to fault or proof of defect, for all direct and consequential damages that arise from the bodily injury or

death if the bodily injury or death proximately results from the discharge of the assault weapon in the District of Columbia.

This is the substance of the legislation. That is the crux of it. It is a matter of holding the manufacturer, the importer, or the dealer of an assault weapon strictly liable; if that weapon causes death or consequential damages, including bodily injury, but are proximately a result of the assault weapon in the District of Columbia.

It goes on to provide exemptions:

(a) No assault weapon originally distributed to a law enforcement agency or a law enforcement officer shall provide the basis for liability under this act.

(b) No action may be brought pursuant to this act by a person injured by an assault weapon while committing a crime.

(c) This section shall not operate to limit in scope any cause of action, other than that provided by this act, available to a person injured by an assault weapon.

(d) Any defense that is available in a strict liability action shall be available as a defense under this act.

(e) Recovery shall not be allowed under this act for a self-inflicted injury that results from a reckless, wanton, or willful discharge of an assault weapon.

Section 6. Applicability.

This act shall apply only to the discharge of an assault weapon that is manufactured, imported, or distributed after the effective date of this act.

Section 7. Effective date.

This act shall take effect after a 30-day period of congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act.

It refers to certain other technical phraseology.

Mr. President, this legislation does not make good sense. We are trying to pass an appropriations bill, and in attempting to pass an appropriations bill, we are moving in on the people of the District of Columbia to tell them what legislation they can or cannot enact into law. That is not right.

I think that the legislation that they enacted has merit. I do not know whether it is right or wrong. I know that it is wrong for the Congress of the United States to tell them what they can or cannot do. Who do we think we are? We do not pay taxes. We provide appropriations for them. But we certainly get our dollar's value for those appropriations. There are dozens and dozens of Federal buildings in this community with respect to which we pay no taxes. So we have to have an appropriations bill in order to help the District of Columbia in meeting its expenses.

Now we come along and say, yes, but if you want to get that money, you can only have the money if you will make ineffective an ordinance that you passed. We would not do that for any particular community in any other city in the country, and we have no right to do that. We should not have the right to do so here on the floor of the Senate.

This is the fun and games we play, the kinds of things we do that make the people of this country respect us so much. Sure, they respect us for telling the people of Washington what they can or cannot do.

There are arguments pro and con with respect to whether this is a good ordinance or bad ordinance. But there are arguments pro and con with respect to good and bad ordinances in communities across this country.

We do not say that the State of Ohio, or the State of South Carolina, or the State of New Hampshire, or any other State in the country cannot have the particular funding that we provide on a Federal basis because they have enacted a particular law in their community. But we do that for the District of Columbia. That is not right. It should not be. It is unfair. There is a kind of impropriety and offensiveness about it.

Now this amendment comes along, and the distinguished Senator from Kansas offers a second-degree amendment in the nature of a substitute so there can be no further amendments to it. Is that not a wonderful way to proceed? So now we cannot even amend the proposal that is before us.

Mr. President, I think this legislation ought to come up some other day, some months, or some years from now.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. I object.

The PRESIDING OFFICER (Mr. KERREY). Objection is heard.

The bill clerk resumed the call of the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senator from Ohio be permitted to yield the floor to the Senator from New Mexico for the purpose of offering an amendment which is totally unrelated to the pending amendment and the substitute amendment, and that there be unanimous consent that the amendment be handled in a totally separate manner from the pending business.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I did not hear the request.

Mr. METZENBAUM. Senator Bingaman wishes to offer an amendment. I am asking for unanimous consent that he be permitted to do so, it having nothing to do with the pending amendment and the substitute amendment of the Senator from Kansas; and that immediately thereafter, Mr. President, I ask unanimous consent that the Senator from Colorado be recognized to be permitted to offer an amendment, again that amendment having nothing to do and not being applicable to either the pending amendment or the substitute amendment; and thereafter the Senator from Ohio retain his right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Would the Senator from Ohio be willing to make the same request for the distinguished Senator from Colorado?

Mr. METZENBAUM. I just did that.

Mr. HOLLINGS. How about an amendment by the distinguished Senator from Connecticut, Senator DODD, that has been agreed upon?

Mr. METZENBAUM. What is that amendment?

Mr. HOLLINGS. That amendment has to do with the fees with respect to the investment advisors.

Mr. METZENBAUM. I add to my unanimous-consent request that the amendment of the Senator from Connecticut be permitted to be considered in the same manner and that the pending amendment, as well as the substitute amendment, retain its place on the calendar and it not be affected by any of the pending proposals.

The PRESIDING OFFICER. Is there objection?

Mr. RUDMAN. Parliamentary inquiry. I just want to make sure I get the last part of this. It is my understanding that, after the consideration of these three amendments, the Chair will then recognize the Senator from Ohio.

The PRESIDING OFFICER. The Senator is correct.

Mr. RUDMAN. I do not have an objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me thank the Senator from Ohio for his courtesy, and the floor managers and the Republican leader.

AMENDMENT NO. 2754

(Purpose: To provide funds for the Competitiveness Council)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 2754.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 73, line 18, delete the figure "$750,000" and insert in lieu thereof "$1,750,000";

On page 43, line 8, delete the figure "$121,021,000" and insert in lieu thereof "$119,923,000".

Mr. BINGAMAN. Mr. President, this is a very simple amendment that adds a small amount of money to the budget of the Competitiveness Policy Council, which is a group we set up by statute in the Trade Act of 1988. It would allow them to continue to do their work, and they have commenced doing that work this last year.

This Council has done a tremendous job of putting together about 200 leaders throughout this country who are working in 8 different subgroups to try to come up with recommendations on ways to improve the competitive posture of the country. This is not, I should point out to anyone listening, this is not the Council which is somewhat more controversial, that the Vice President has headed in recent months, but this is the Competitiveness Policy Council established by the Omnibus Trade Competitiveness Act of 1988.

The amendment that I am proposing here is one that is acceptable to the managers of the bill on both sides. I commend it to the Senate for adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. HOLLINGS. Mr. President, this amendment has been cleared on both sides. We are willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2754) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BINGAMAN. Mr. President, I wish to take one additional moment before yielding the floor.

I want to commend the managers of the bill, Senator HOLLINGS and Senator RUDMAN, for the superb work they have done on this legislation. I do think that this appropriations bill contains in it some very important initiatives that were recommended both by the defense conversion task force that Senator PRYOR headed and the defense conversion task force that Senator RUDMAN headed.

We have significant increases in funding for the advanced technology program. We have considerable increases for the Economic Development Administration; funding for NIST, necessary facilities at the NIST headquarters in Gaithersburg. We have also a very substantial increase in funding for small business loan guarantees.

I think all of these are very useful initiatives. They follow through with the recommendations that have been made by both Democrats and Republicans here in the Congress in recent months. I think the managers of the bill are to be commended for their excellent work.

Mr. President, with that, I yield the floor. I thank the managers for their assistance.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 2755

(Purpose: To insure that any new International Coffee Agreement is submitted to the Senate for advice and consent)

Mr. BROWN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 2755.

On page 83, line 10, after "Agency" insert the following: "*: Provided further*, That none of the funds made available by this Act may be used to implement or enforce any International Coffee Agreement which has not been submitted to the United States Senate for its advice and consent:".

Mr. BROWN. Mr. President, the amendment is quite straightforward. In this bill is funding in excess of $900,000 to fund the negotiation of a new coffee agreement. The last coffee agreement, when it was in effect, cost American consumers millions of dollars, literally millions of dollars. When quotas expired in 1989, the wholesale price of coffee dropped 46.1 percent worldwide, an enormous savings for American consumers.

The administration is now negotiating a new coffee agreement, one that could reverse those savings and could again cost American consumers literally billions of dollars. What this amendment simply does is hold in abeyance a new coffee agreement until the Senate has had an opportunity to lend its advice and consent. It does nothing more than to make it clear that this body will exercise its constitutional powers to review treaties; to make sure that this particular new agreement does not slip through the cracks.

Mr. President, if it were up to me alone, I would eliminate all money for negotiating a new cartel agreement. This amendment does not do that. What it does, though, is ask that at least this body have its opportunity to review the new agreement before it goes into effect.

Mr. President, I reserve the remainder of my time.

Mr. HOLLINGS. Mr. President, this amendment was cleared on both sides, and I urge the adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2755) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2756

(Purpose: To provide for recovery of costs of supervision and regulation of investment advisers and their activities, and for other purposes)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk for Senator DODD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. DODD, proposes an amendment numbered 2756.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 109, after line 8, insert the following new section:

SEC. 612. FEES FOR REGULATION OF INVESTMENT ADVISERS.

(a) IN GENERAL.—

(1) FEE.—

(A) CURRENTLY REGISTERED ADVISERS.—Each investment adviser registered under the Investment Advisers Act of 1940 prior to the effective date of this section shall submit to the Securities and Exchange Commission (hereafter referred to as the "Commission") an annual fee to be used by the Commission for recovery of the costs of supervision and regulation of investment advisers, as determined according to the schedule set forth in subparagraph (C).

(B) NEWLY REGISTERED ADVISERS.—Each person that becomes registered as an investment adviser in accordance with the Investment Advisers Act of 1940 on or after the effective date of this section shall pay the fees specified in the schedule set forth in subparagraph (C) upon such registration and annually thereafter.

(C) SCHEDULE.—The schedule set forth in this subparagraph is as follows:

Assets under management	Fee due:
Less than $10,000,000	$300
$10,000,000 or more, but less than $25,000,000	$500
$25,000,000 or more, but less than $50,000,000	$1,000
$50,000,000 or more, but less than $100,000,000	$2,500
$100,000,000 or more, but less than $250,000,000	$4,000
$250,000,000 or more, but less than $500,000,000	$5,000
$500,000,000 or more	$7,000

(2) USE OF FEES.—Fees collected in accordance with this subsection shall—

(A) be deposited as offsetting collections to the Securities and Exchange Commission appropriation for the fiscal year ending September 30, 1993;

(B) be available to the Securities and Exchange Commission in addition to any other funds provided for in this Act; and

(C) remain available until expended.

(b) EFFECTIVE DATE.—This section shall become effective upon the enactment of authorization legislation and adoption by the Securities and Exchange Commission of appropriate implementing rules and regulations.

Mr. DODD. Mr. President, let me say at the outset that this amendment has been worked out with the SEC, as well as with the industry. We also worked very closely with the manager of the bill, and I understand he supports it, and it has been cleared on both sides.

This amendment addresses the serious inadequacies in the SEC's current inspection program for investment advisers. It would establish a fee structure for registered investment advisers and the fees would be used as offsetting collections to fund an increase in the SEC examiner staff responsible for investment advisers.

The fees would be paid annually and would be based on assets under management. The fee for the smallest investment advisers would be $300, and the fee for the largest—those with over half a billion dollars under management—would be $7,000.

Mr. President, the public probably is more familiar with the term financial planner than investment adviser. The terms are used interchangeably by many people. Technically, an investment adviser is someone who receives compensation for giving advice relating to securities. Investment advisers are required to register with the Securities and Exchange Commission, and must comply with disclosure, recordkeeping, and other investor protection requirements.

Congress long ago determined that it was in the national interest to have strong Federal oversight of investment advisers. If we want people to have confidence in our securities markets, to invest in our markets and provide the funds necessary for capital formation, economic growth and, above all, jobs for American workers, we simply cannot permit unscrupulous investment advisers to take advantage of people who come to them for advice. Congress passed the Investment Advisers Act in 1940, and gave the SEC the responsibility to inspect advisers, for the protection of investors.

Unfortunately, we now have at the SEC an oversight program that, in the words of one official, "doesn't even pass the laugh test." How in the world can we represent to the public that we are supervising this industry, when the SEC has so few examiners that it inspects investment advisers, on average, once every 25 to 30 years.

In the past decade, the industry has grown dramatically; SEC staff resources have not. From 1981 to 1991, the number of advisers registered with the SEC increased from 4,500 to over 17,500, and the assets under their management soared from $440 billion to $5.3 trillion. That is an increase of more than 1,100 percent, and represents more than twice the amount deposited in U.S. commercial banks.

But, during the past decade, the SEC examination staff increased from 36 to just 46 examiners. That's 46 examiners to inspect over 17,500 firms—with assets of $5.3 trillion.

There is a reason why the industry has grown so fast. Quite simply, the financial services world has become incredibly complicated for the average American. More and more Americans are turning to professional advisers for help.

Those individuals who seek help from an investment adviser may be seniors—those who have retired and are looking for ways to make their savings last for the remaining years of their lives. They may be young couples planning for a family or saving for their children's college education. They may be couples reaching middle age, trying to invest so they can be comfortable in their retirement years. They may be widows or divorcees who have a small inheritance or a lump sum payment they need to invest safely, to provide for their future.

Many of them are unsophisticated and unsure, and they are looking for someone to trust. So they turn to an investment adviser. But, in some cases, investment advisers may be more interested in the fees they collect or in the commissions they generate than they are in rendering sound, objective advice to their clients.

At our subcommittee hearing on this issue, one investor, Elizabeth Faitella, from Unionville, CT, lost more than $30,000—most of her family's savings, as a result of dealing with an unscrupulous investment adviser.

The SEC and other experts share my concern that seniors may be the most vulnerable. The current low interest rate environment is forcing many of our seniors to look for alternatives to interest-bearing instruments. And, when they are taken in by con men, they, unlike many of us, have no opportunity to recoup their losses, because their income-earning days are over.

And, it is not just individuals who use investment advisers. Many cities and counties rely on professional investment advisers, to help invest tax receipts or other government funds. In just this past year, Iowa trust fund, a group of cities that invested funds with a California investment adviser named Steven Wymer, may have lost over $70 million in the taxpayer funds of that State as a result of his fraud.

When the SEC simply does not have enough cops on the beat, individual investors suffer, taxpayers suffer, and capital formation suffers—because investors lose confidence in our capital markets.

Now, the SEC and the industry have studied this problem for more than 5 years. They developed a bill, which we reported from the Securities Subcommittee with broad support by committee members and with the strong support of the industry. The bill, S. 2266, established a new fee structure for investment advisers and provided that those fees would be used as offsetting collections to fund an increase in the number of SEC examiners assigned to inspect investment advisers. The bill contained other provisions, to give the SEC authority to require fidelity bonds for investment advisers and to provide one-stop filings, so that advisers would not have to file separately with 50 States. It also contained provisions which removed certain restrictions on mutual funds trading for their customers—to provide savings of hundreds of millions of dollars, according to industry estimates. The Banking Committee voted to report the bill on May 21, and it is pending on the Senate calendar. But, in order to implement the fee provisions of the bill, the fees must be passed separately as part of the SEC's appropriations. My amendment contains that portion of the bill.

Let me underscore that the bill we reported is the only proposal that has achieved broad consensus—from the industry and the regulators alike. Consumer groups would like us to have gone further. I, personally, might like to see a few more things in the bill.

But, we worked this out very carefully. The industry has stepped up to the plate and said it is willing to pay an annual fee based on the assets under their management—ranging from $300 for small advisers to $7,000 for the largest ones, so long as the fees are used to fund an enhanced SEC inspection program.

If we pass this amendment, we finally will have more cops on the beat. The SEC will be able to inspect investment advisers at least once every 3 to 5 years.

This approach is endorsed by: The SEC, by State regulators, the Investment Company Institute, associations representing small financial planners, and by the securities industry association.

Mr. HOLLINGS. Mr. President, the Securities and Exchange Commission currently has 46 examiners assigned presently to score some 17,500 investment advisers. Obviously, the chance for an examiner to really review the activities is very, very limited. It is on the average about once every 25 or 30 days. The funds appropriated by the new fees in this particular amendment would permit the Securities and Exchange Commission to add approximately 120 examiners, and enable the SEC to reduce the inspection cycle to approximately once every 3 to 5 years.

The fee schedule provided has the support of the SEC, the industry, and the State regulators.

The amendment has been cleared on both sides. I urge the adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2756) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, the Senator from Ohio is contemplating offering one or more amendments with respect to the pending amendment. But in the interim, while we are working to prepare it, I thought I would share with my colleagues what the papers have been saying about the action of the City Council of Washington, the action which the pending amendment would undo.

On November 1, 1991, the Washington Post said:

ASSAULT WEAPON LIABILITY: YES

Should the manufacturers, importers and dealers of assault weapons be held liable for all injuries inflicted by the use of assault weapons in this city? In the past, our answer has been no, but we believe it's time to say yes, with votes for Referendum 006 on the D.C. ballot Tuesday. Our opposition until now was on grounds that (1) these weapons already are banned in the District, (2) the effective answer would be federal action banning them everywhere in the United States, and (3) it is a long reach for one city to try to wipe out the making and marketing of firearms considered legal elsewhere. But too many innocent people in too many bullet-riddled neighborhoods are at wit's end—desperate for help that Congress and the White House refuse to extend by stopping the flow of weapons that have no purpose other than to maim and kill.

Ministers, civic leaders and grief-stricken, angry relatives of victims see an opportunity in this vote not only to send a message to the industries that supply the world with these weapons of immorality but also to make them bear the costs of conscious marketing decisions that expose society to extraordinary, costly risks. The more than 125 ministers supporting this referendum proposal will tell you they are burying young people all the time, that the semiautomatic weapons specifically cited in the measure are playing an increasing role in the taking of lives that now is witnessed so frequently. "Something more has got to be attempted," says the Rev. Albert Gallmon Jr., pastor of Mount Carmel Baptist Church. "We can't just say, 'Let God take care of it.'"

What would the proposal do? It might just cause the forces behind assault weapons to be a little more careful in their manufacturing and distribution. And though it would be one city acting on its own, it could show other cities and states a way to join up and increase the pressures. Supporters of the D.C. proposal note that in liability cases, the issue is not whether an activity such as making or distributing weapons is allowed to occur, but rather who should pay for the damage that results.

The Rev. H. Beecher Hicks Jr., senior minister of the Metropolitan Church and chairman of the Committee for Strict Liability supporting the referendum measure, says that however complex the politics of this proposal may become, "We cannot be silent in the face of the misery confronting our city. Human life is at stake, and we are compelled to stand up for that life." The message of the ministers is compelling—and should be sent where it counts by the voters of this city.

What they are saying is that there are more and more human lives being lost by the use of assault weapons and semiautomatic weapons in this community, and there has to be a stop put to it. And they believe this is one way they can have an impact upon it.

Is that the only editorial, from the Washington Post? No: the New York Times. I am reading from the editorial, which was November 12, 1991; and the Washington Post editorial was November 1, 1991.

Last week, voters in Washington, D.C., reversed their City Council's craven repeal of a law that would make gun makers and dealers liable for injuries caused by assault weapons. That sends a message to all jurisdictions where voters are fed up with gun violence and official reluctance to confront it.

Late last year the Council enacted a law imposing "strict liability" on purveyors of 14 types of semiautomatic rifles and pistols designed for military use but prized by criminals. Strict liability allows victims to recover damages from the manufacturers and dealers even though they had nothing to do with gun crimes. The law already recognizes such liability for other businesses engaged in "abnormally dangerous" commercial activity, like shipping explosives or disposing of toxic wastes.

Representative Thomas Bliley of Virginia, the ranking Republican on the House committee that supervises the District of Columbia, objected. Assault weapons are sold legally in his home state. In fact, Virginia is a big source of guns smuggled into the District. Mr. Bliley played hardball: he threatened to block $100 million in emergency aid for the District unless it repealed strict liability.

He may get onto the list of "Profiles in Courage" for offering that amendment—maybe not.

Mayor Sharon Pratt Dixon and the City Council caved in.

Supporters of the law then tried to repeal the repeal with a ballot initiative. Last week a 77 percent majority approved the initiative; the law will now take effect at Christmas. The gun lobby can be expected to press Congress to overrule the vote and test the law in court. But legislation would require support from a Senate that has already passed a ban on the same weapons.

In 1985 Maryland's Court of Appeals upheld strict liability for makers of cheap "Saturday night special" handguns. There appears to be an even stronger case for classifying the sale of assault weapons as abnormally dangerous activity. (The Maryland finding no longer stands because the legislature subsequently overruled it when it passed an outright ban on Saturday night specials.)

Some people question the whole idea of using liability law to advance gun control when legislatures refuse to approve more direct bans. But in Washington's case, both the City Council and Congress ignored the public demand expressed in the ballot initiative. Such an initiative, and strict liability, may be imperfect devices, but the daily bloodshed caused by assault weapons goes on.

Mr. BIDEN. Will the Senator yield for a second?

Mr. METZENBAUM. I yield without losing my right to the floor.

Mr. BIDEN. Mr. President, let me begin by saying I strongly support the position of the manager of this bill that this is legislating on an appropriations bill. I wish we could get on with the debate on the underlying appropriations as opposed to the legislating that is going on. And I respect my friend from New Hampshire for pressing the point.

But I kind of find it fascinating. I just sat through, as did the Senator from Ohio, the better part of 3 months of off-and-on debate—sometimes on—and very vigorous debate in the Senate Judiciary Committee, with a group of Senators—it turned out to be a bare majority, but a majority of Senators—who thought we should change the tort laws and liability law so that any book store owner who sold any material that turned out to be obscene, if that material was ever read by someone who committed a crime, a sexual offense, that that book store owner—not just the person who wrote the literature, but the book store owner—and everyone else should be liable for damages, et cetera, et cetera, et cetera.

I will not bore my friend, who knows the issue well. I took a glance at the vote on this amendment. The very people who are telling us that it is outrageous that we allow bookstore owners, whether they knew it or not, to sell any material out of the 20,000, 30,000, 40,000, 50,000, 70,000, 100,000 volumes of material they sell, that that person should be liable, even though there is no evidence of a causal connection between someone reading that book and crime being committed, they are ready to scuttle the first amendment, and they vote for or speak for or have voted for changing the tort law so that a bookstore owner, for example, will be held liable.

Pornography is a serious problem. Obscenity is a serious problem. Crimes against women are a horrendous problem, the worst single problem we face on the crime front in America. So I acknowledge it is arguable—I happen to not agree with the specific legislation—and now I find we come along here with guns and, lo and behold, the protectors of those in America who may or may not directly, indirectly, incidentally, or otherwise have been exposed to a piece of obscene material who may have later committed a crime, whether or not there is a causal connection, because they wish to protect the American people, they are willing to take the first amendment and basically drop it in a bin over here.

But when it comes to guns, 24,600 murders this year—24,600 murders.

This President has the worst record of any President in the history of the United States of America based on the statistics in terms of fighting crime. But when it comes to guns, that tort principle does not make sense; that is, to hold someone liable for selling a gun that ultimately is purchased by someone who commits a crime. I happen to think it is all, whether it applies to guns or to bookstore owners, very, very shaky law. I understand the view of the people from the city of Washington, DC, but I must say, as matter of a principle of tort law, it is a shaky principle to extend it this far, notwithstanding what the Washington Post thinks.

But all I want to point out to my friends here, those who are going to come to the floor today and argue that the D.C. law should be repealed because it is bad law, I hope you are going to be here when legislation comes forward relating to the first amendment because I am going to remind you of your votes. I am going to read back into the RECORD the same tort principles that you want to see changed and applied to the notion of obscenity and pornography, and yet unwilling to have it apply to guns.

I do not ever ask for consistency. Lord knows many of us are not consistent. Ralph Waldo Emerson said:

A foolish consistency is the hobgoblin of little minds, adored by little statesmen and philosophers and divines.

We see it all the time here, inconsistencies. We seldom even see foolish consistency.

Without belaboring the point, I want to remind my friend from New Hampshire, my friend from Ohio, and all my friends on the floor of that old expression we heard our mothers grandmothers use: What is good for the goose is good for the gander. If it is good enough to stop murder, then maybe it is good enough to try is stop pornography-related sexual crimes, if that can be shown. If it is good enough to stop pornography-related sexual crimes, if it can be shown, maybe it is good enough to stop crimes resulting in maiming and death of individuals.

But we cannot have it both ways. Either we change the tort law and change the product liability law or we do not change it. To say bookstore owners are on the hook, but gun store owners are not on the hook, that seems to me to be a little bit frivolous. I thought I would remind my colleagues of that.

I thank my friend for being kind enough to yield the floor. I support his position in terms of getting this piece of legislation off this appropriations bill and let the folks of D.C. fight out what they think is the appropriate change, if any, in the law.

I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, the Senator from Delaware, as usual, makes a very persuasive argument, that if you are going to have one line of reasoning when it comes to the consequential effects of pornography, then you ought to have the same line of reasoning with respect to assault weapons. But the fact is the Members of this body, too many of them, feel differently. The committee discussed this for some weeks and indicated that, without any special causal relationship, those who sold pornographic material were to be held responsible. And that is what the people of the District of Columbia said.

I was in error when I spoke earlier because I talked about the enactment of the District Council. The fact is it was an enactment of the people of Washington, a referendum. Seventy-seven percent of the people indicated that they are sick and tired of having their sisters and their brothers and their fathers and their mothers and their grandparents and the babies mowed down by assault weapons put in the hands of maniacs who roam the streets, and they want to put a stop to it. So they tried to do the decent, responsible thing. But this great United States Senate says:

Oh, no, you cannot do that which you think you should do in order to protect your community. We are going to tell you what to do because we have the power of the purse strings.

I think it is absurd, I think it is irresponsible, and I think it is shameful. Every editorial that has been written on the subject has indicated support for the District of Columbia position, at least every one that I have seen. I came across another one in Roll Call. Roll Call says:

DC'S GUN LIABILITY LAW, AND CONGRESS

Earlier this year, Mayor Sharon Pratt Dixon and the DC City Council in an act of cowardice, agreed to rescind a law that held manufacturers and sellers of vicious semi-automatic assault weapons liable for the deaths and injuries they cause. On Tuesday, in a sharp rebuke, District voters, by nearly four-to-one, approved a ballot initiative to restore the legislation. This city is sick of violence, and sick of politicians who don't make fighting crime their top priority. Certainly, the gun liability law will end up in court, where we hope it will be upheld. But there's a more important issue at hand. Congress has the authority to pass its own legislation rescinding the initiative, and, even before the referendum passed, Reps. Dana Rohrabacher (R-Calif) and Larry Combest (R-Texas) submitted a bill to do just that. The gun-loving residents of Palos Verdes and Lubbock may not want a liability law to deal with disgusting weapons like the Tec-9 and the "Street-Sweeper" (a sawed-off shotgun that can fire 12 rounds in three seconds), but the residents of this city—especially the black residents, whose neighborhoods have been overrun by thugs—clearly do. For Congress to deprive the District of this defense against crime would be a crime itself, an affront to self-determination and human rights.

I say to my colleagues, how can you do this to a community? These are people, decent people who have children, who have parents, who want their families to grow up without being murdered in the streets every night, and, yes, too often in the daytime. But what happens? They pass a bill, an ordinance to do something about it. And what do we do? We come here because we are subject to the whims and the pressures of the National Rifle Association. They might not support somebody if we voted the wrong way with respect to this proposal.

So the National Rifle Association puts pressure on the Congress of the United States and the Congress of the United States buckles in and we say to the people of Washington, the ordinance that you passed by a 77-percent margin, you cannot have that legislation. We are going to tell you what to do. We repeal it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. SMITH. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk continued with the call of the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded with the understanding that the Senator from Ohio and such other Members on the floor may be involved in a colloquy, but not for the purpose of offering an amendment, and that immediately thereafter, the quorum call be put into effect.

THe PRESIDING OFFICER. The Chair is informed from a parliamentary perspective that the Senator may not qualify the conditions under which the quorum call may be rescinded.

Is there objection?

Mr. SMITH. Reserving the right to object——

The PRESIDING OFFICER (Mr. BRYAN). The Chair informs the Senator that there is not a provision for debating whether or not the quorum call can be rescinded.

Mr. SMITH. I withdraw the objection.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. I assure the Senator from New Hampshire that I asked for the quorum call to be called off in order that I may engage in a colloquy with the distinguished manager of the bill.

Am I correct in the advice that has just been given to me that the Senator

from South Carolina will be the chair of the conference committee, or rather will be the chair from the Senate side, and that the Senator from South Carolina has every intention of dropping the amendment that is presently pending before the body?

Mr. HOLLINGS. In response to the Senator from Ohio, I told our colleague from New Hampshire that is within the matter, at best, of the District of Columbia appropriations bill, and had no relation whatsoever to the Departments of Justice, State or Commerce, and that I did not see how we could hold it on the bill. I was more or less indicating no Senator could say we are going to knock it out or keep it in, but if I had bet on it, I would bet it would not be in the bill.

Mr. METZENBAUM. Does the Senator from South Carolina mean by his response that he would personally urge the conference committee to drop the amendment? I am aware of the fact that the Senator from South Carolina, I believe, has voted to overrule the chair in its decision on this subject.

Mr. HOLLINGS. Yes. I said at that particular time—and it is already a matter of record—that I agree with the Senator from New Hampshire as to the substance and not the procedure. Therefore, on the procedural point, it would not be in our bill.

Mr. METZENBAUM. It would not be in our bill?

Mr. HOLLINGS. Would not be in our bill.

Mr. METZENBAUM. Such a representation will be made to the conference committee, and you will make every possible effort to eliminate this amendment from the bill?

Mr. HOLLINGS. That is correct, and that is the position of the Senator from New Hampshire, as far as I understand it.

Mr. METZENBAUM. Is the Senator from New Hampshire available to respond?

Mr. HOLLINGS. He is on his way back.

Mr. METZENBAUM. I would like to put that question to him, as well, and I therefore suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I am not trying to interrupt their understanding, but just on two amendments that have been cleared on both sides, I would like to use this time.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

AMENDMENT NO. 2757

Mr. HOLLINGS. Mr. President, on behalf of the distinguished Senators from Rhode Island [Mr. PELL and Mr. CHAFEE] I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The Senator from South Carolina [Mr. HOLLINGS], for Mr. PELL for himself and Mr. CHAFEE, proposes an amendment numbered 2757.

On page 91, line 17 delete the period and insert in lieu thereof the following: ": *Provided further*, That $800,000 shall be available for the World Scholar-Athlete Games.".

Mr. HOLLINGS. Mr. President, this is an $800,000 earmark under the USIA budget for the World Scholar-Athlete Games to be held next June in Rhode Island.

Mr. PELL. Mr. President, on behalf of Senator CHAFEE and myself, I am offering an amendment to provide $800,000 in fiscal year 1993 for the World-Scholar Athlete Games to be held next June in Rhode Island.

These games will bring together some 2,000 scholars and scholar-athletes from more than 100 countries to participate in educational, cultural and athletic events.

In order to participate in these games, American and foreign participants will have to have high academic achievement, demonstrated proficiency in cultural or athletic endeavors, and clear leadership qualities.

The games will have three components: an educational portion revolving around topics such as world peace, drug abuse and the environment; a cultural program consisting of workshops in art and music; and athletic competition.

Our distinguished colleague from New Jersey, Senator BRADLEY, is the honorary chair of the games.

To date, more than 1,500 students worldwide, including young scholars from all 50 States and the District of Columbia, have been nominated to participate in the games.

The budget for the games is $4.3 million. The Institute of International Sport, which is organizing the games, has received donations from private contributors and corporations. However, that funding is not sufficient to cover all of the costs.

The amount sought from Federal funding is modest compared to the overall budget. Moreover, there is precedent for funding games such as these. The Pan Am Games and the World University Games are just two such examples.

As one who has been a long-time supporter of exchanges, I believe that these games will play an important role in educating and sensitizing these young people, many of whom may be future leaders, to the problems and the aspirations of other countries and other peoples.

This money is an investment in international understanding and future stability. I believe it is a good investment and I urge my colleagues to support it.

Mr. CHAFEE. Mr. President, I am pleased to cosponsor the amendment offered by my friend, the distinguished senior Senator from Rhode Island.

The World Scholar-Athlete Games should be a marvelous event. The games will bring together an equal number of young men and women from more than 100 nations and all 50 States to promote international understanding and cross-cultural exchange. More than 2,000 individuals are expected to attend the event that will be held in Rhode Island from June 20 to July 1, 1993.

Unlike the Summer Olympic Games that are currently underway in Barcelona, Spain, the World Scholar Games will not pit one nation competing against another in pursuit of gold, silver, and bronze medals. Instead, individuals will be chosen at random to participate in just four team sports: volleyball, soccer, basketball, and tennis doubles. Therefore, a team may be composed of scholar-athletes from a variety of nations—perhaps a Cuban and an American on the same basketball team, or an Israeli and a Palestinian on the same soccer squad. The focus will be on teamwork and participation, as opposed to nationalism and the quest for gold medals.

The games will be more than just an athletic event. In addition to the sport competitions, there will be a cultural component for a separate group of young singers, artists, writers, and poets. Each participating nation and state will join to craft songs and artistic exhibits celebrating the themes of international peace.

Let me describe the goals of the games:

To promote understanding, acceptance, and friendship among the youth of the world through experiences in sports, music, art, writing, poetry, and seminar discussions;

To establish open, nonpolitical, longstanding relationships among tomorrow's world leaders;

To utilize sport and the arts as a means of communication for learning rather than competition among nations; and

To renew the concept of amateurism in a major international sporting event.

Mr. President, now that the cold war is over and old adversaries are now friends, it is especially important to foster events such as the World Scholar-Athlete Games. We hope the next decade and beyond will be a period of peace and deepening understanding between the world's rich and varied cultures. The games will certainly play an important role by bringing together talented young people from around the globe.

I am proud to serve—along with Senator PELL—on the Diplomatic Council at the Institute for International Sport, the parent organization that de-

veloped the idea for the World Scholar-Athlete Games. The Institute does a fine job, and I look forward to welcoming both our international guests and the stateside competitors to the events next summer. It will be a wonderful celebration, and a great opportunity for American young people to meet and learn from our foreign visitors.

Mr. President, I support the amendment offered by Senator PELL and urge its adoption.

Mr. HOLLINGS. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2757) was agreed to.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the amendment again be temporarily laid aside so I can offer this amendment on behalf of Senator ADAMS.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2758

(Purpose: To provide equitable relief to Joseph Karel Hasek to allow him to be compensated for his losses)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. ADAMS, for himself and Mr. PELL, proposed an amendment numbered 2758.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

SEC. . (a) Pursuant to Private Law 98-54 and notwithstanding any other provisions of law, the Secretary of the Treasury is directed to pay from funds provided in this Act to the Department of State and identified by the Secretary of State to Joseph Karel Hasek, $250,000 (less than 5 percent of his losses), together with interest calculated under subsection (b), not later than 30 days after enactment of this Act.

(b) The interest to be paid under subsection (a) shall represent the amount of interest accruing on $250,000 from August 1, 1955, to August 8, 1958, at a rate which shall be determined by the Secretary of the Treasury.

(c) No amount in excess of 10 percent of any amount paid pursuant to this section may be paid to or received by any attorney or agent for services rendered in connection with such payment, and any such excessive payment shall be unlawful, any contract to the contrary notwithstanding.

Mr. ADAMS. Mr. President, I offer this amendment today to correct a grave injustice that has been done to a citizen of the United States.

This individual became a U.S. citizen in the middle of his life. He is a person who knows the value of the freedoms that this Nation was based on.

I am referring to Dr. Joseph Karl Hasek. Dr. Hasek is well known to some Members of this body. The chairman of the Committee on Foreign Relations, the Senator from Rhode Island, came to know Dr. Hasek when Senator PELL was a Foreign Service officer stationed in Prague, Czechoslovakia, in the mid-1940's. I have come to know him more recently as a strong defender of freedom and a fierce anti-Communist who has never gotten the justified compensation he deserves for his sacrifices on behalf of the United States and Western interests.

Mr. President, I want to give the Senate a brief background on the need for this amendment. In 1947 then Secretary of Commerce asked Dr. Hasek, then the head of a prominent Czech banking family, having taken over the business upon the liberation of Czechoslovakia after World War II, during which his father was executed by the Nazis, to undertake a study of United States trading patterns in major industrial centers. While in the United States in February 1948 to deliver his report to Secretary Harriman, the Communists took over his native Czechoslovakia and he was placed on a list of individuals to be arrested upon arrival. Dr. Hasek decided to remain here and applied for U.S. citizenship which was quickly granted. Eventually Dr. Hasek's mother, wife and two children were able to join him in the West and his adopted country. Unlike other Czechs who escaped Communist rule in Czechoslovakia, Dr. Hasek has not been fairly compensated for his loses.

For the past 40 years he has worked to free Czechoslovakia from the grip of the oppressive Communist regime that enslaved Czechs and Slovaks, and exiled him. With the realization of that dream there is one piece of unfinished business that must be attended to.

When Dr. Hasek left Prague he left behind more than $5 million in assets that have never been recovered, despite the fact that other Czechs that fled their country after the Communist takeover have been able to recover 100 percent, or more, of their lost resources. This was done through the Czechoslovak Claims Settlement Act of 1981, which established the Czechoslovak Claims Fund which collected $80 million from the Government of Czechoslovakia. While others received adequate compensation from this fund, sometimes more than had actually been lost, Dr. Hasek was unable to establish to the satisfaction of the Foreign Claims Settlement Commission the nature and true value of his holdings.

Mr. President, it should not be surprising that Dr. Hasek could not prove these holdings were confiscated after he became an American. Dr. Hasek came from a very prominent, well-to-do Czech family. While others who had defected could hire Czech lawyers, produce documents that they had brought out with them, and even travel to Czechoslovakia themselves to obtain affidavits, Dr. Hasek could do none of this. The Communists wanted to arrest him, they were certainly not about to admit to expropriating such vast personnel wealth from a man who was attempting to discredit them in the eyes of the world. And of course he did not know when he left Prague in 1948, that he would not return. Add to this some bureaucratic bungling at the State Department over whether the law applied to citizens and/or nationals and Dr. Hasek's claim was denied in toto.

In 1984 the Congress attempted to correct this inequity by enacting Public Law 98-54, which required that the Commission reopen his case and consider the, and I quote, "unique circumstances pertaining to that claim" unquote. Again the Commission ignored the Congress legislation and denied his claim in toto. The Commission paid him $6,220 for his mother's house in Prague, which was valued at $50,000, and which was not part of his claim since she was still living in it when he left Czechoslovakia in 1948 for what became a journey to United States citizenship.

Mr. President, efforts since then to right this injustice have not, as yet been successful. Dr. Hasek, now in his eighties, lives in Washington, DC, is recently retired from the international economics and trade consulting firm he started in 1948 after his exile and is sorting through boxes containing documents of four-score years of fighting against Communist oppression. Once they took his livelihood and his country. The Czechs and Slovaks have taken back his country, we cannot give him back his livelihood of the last 40 years, but we can give him a fair shake.

Mr. President, the amendment I propose would pay, within funds provided, Dr. Hasek $250,000, which is less than 5 percent the 1948 value of the holdings he left behind, plus interest from August 1, 1955, to August 8, 1958, to be computed however the Secretary of Treasury sees fit. It is a small gesture to a man who has been a friend of the United States for more than two generations, and a friend to Czechs and Slovaks for more than 80 years.

Mr. PELL. Mr. President, I rise in support of the amendment to correct an injustice by providing partial compensation to Dr. Joseph Hasek for properties seized by the Communist government of Czechoslovakia. As a young diplomat in Prague in the late 1940's, I knew Dr. Hasek well. In fact, I played a part in the invitation extended by the then Secretary of Commerce, Averell Harriman, to Dr. Hasek to come to the United States in early 1948 as an adviser on Eastern European economic issues.

As others have already pointed out, it was while Dr. Hasek was in Washing-

ton on this mission that the Communist coup took place. Subsequently, several properties of his, worth several million dollars were seized by the Communists, and Dr. Hasek was put on notice that he would be arrested if he returned to Czechoslovakia.

When the Czechoslovak Claims Commission was set up to adjudicate claims in connection with the agreement to return Czechoslovak gold and other assets controlled by the United States, Dr. Hasek filed a claim. However, because of his presence in the United States and his inability to return to Czechoslovakia, Dr. Hasek was placed in a uniquely disadvantageous position in providing the documentation required to substantiate his claim.

Although Dr. Hasek gathered as much information as he could, including affidavits from people who were familiar with his properties and circumstances, his claim was denied. In effect, he was penalized for having served on the advisory panel set up by Secretary Harriman. That is unfair, and we now have an opportunity to rectify matters. And here I would point out that the pending amendment does not provide full compensation to Dr. Hasek. In fact, it compensates him for only 5 percent of his losses. That is a token amount, but it is nevertheless an important token of recognition and appreciation for all that Dr. Hasek did, both in Czechoslovakia and in the United States, in the struggle against communism and in support of the United States interests in Eastern Europe.

Mr. HOLLINGS. Mr. President, this is pursuant to Private Law No. 98–54. The Secretary of the Treasury is directed to pay certain funds to Joseph Karl Hasek, and it has been cleared on both sides to proceed with that particular provision of the law, 98–54.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 2758) was agreed to.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that Senator JOHNSTON be added as a cosponsor to the amendment No. 2749 offered earlier today by Senator BREAUX and myself establishing a loan vessel obligation guarantee program.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I thank the distinguished Senator from Ohio and the Senator from New Hampshire and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the amendment momentarily be set aside so we can present this amendment on behalf of myself, subject to the consent, of course, of the distinguished Senator from Missouri [Mr. DANFORTH].

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2759

Mr. HOLLINGS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself, Mr. INOUYE, and Mr. GORTON, proposes an amendment numbered 2759.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend section 611 to read as follows:

SEC. 611. (a) None of the funds appropriated under this Act may be used by the Commission to develop, issue, implement, or enforce a rule or order affecting the use of the frequencies between 1850 and 2200 MHz by qualified private fixed microwave entities in the proceeding identified as ET Docket 92–9, or any successor proceeding, unless the Commission meets the requirements of subsection (b) and incorporates the requirements of subsection (c) into such rule or order.

(b) Such rule or order shall not take effect until 90 days after it has been issued by the Commission.

(c)(1)(A) The Commission shall not redesignate, from primary to secondary, any use of the frequencies between 1850 and 2200 MHz by a qualified private fixed microwave entity.

(B) The Commission may permit frequencies between 1850 and 2200 MHz that are allocated on a primary basis to qualified private fixed microwave entities to be used on a shared basis, except that any entity that shares the frequencies between 1850 and 2200 MHz with a qualified private fixed microwave entity shall bear the burden of eliminating any harmful interference to a primary system of a qualified private fixed microwave entity.

(C) Any newly licensed system, or any modification of or addition to an existing system, operated by a qualified private fixed microwave entity on frequencies between 1850 and 2200 MHz shall bear the burden of eliminating any harmful interference to any emerging telecommunications technology entity whose license was issued at an earlier date than the license for such newly licensed system or such modification or addition.

(D) Any grant of a license to a qualified private fixed microwave entity for a new system, or for modification of or addition to an existing system, to use frequencies between 1850 and 2200 MHz shall be on a primary basis, unless no other qualified private fixed microwave entity is operating on those frequencies on a primary basis.

(E) The Commission shall not, for the purpose of preserving the availability of frequencies for emerging telecommunications technologies or other uses, deny any application of a qualified private fixed microwave entity for a license for modification of or addition to an existing system, to operate on frequencies between 1850 and 2200 MHz.

(2) The Commission shall not impede or restrict the ability of qualified private fixed microwave entities operating on frequencies between 1850 and 2200 MHz, or of licensees or proponents of emerging telecommunications technologies, to enter into voluntary agreements for the purpose of optimizing efficient use of spectrum, including but not limited to migration of facilities to other frequencies or media.

(3)(A) At a date no earlier than 8 years following issuance of a rule or order affecting the use of the frequencies between 1850 and 2200 MHz by qualified private fixed microwave entities in the proceeding identified as ET Docket 92–9—

(i) any emerging telecommunications technology entity operating on or seeking to operate on frequencies between 1850 and 2200 MHz may submit to the Commission under this paragraph a proposal for migration of any qualified private fixed microwave entity's facilities operating on frequencies between 1850 and 2200 MHz to other frequencies or media; and

(ii) any qualified private fixed microwave entity operating or seeking to operate on frequencies between 1850 and 2200 MHz may submit to the Commission under this paragraph a proposal for migration of any emerging telecommunications technology entity's facilities operating on frequencies between 1850 and 2200 MHz to other frequencies or media.

(B) Any migration proposal under subparagraph (A) (i) or (ii) shall demonstrate that—

(i) the party proposing such migration has a license to operate on the frequencies used by the party subject to the migration or otherwise has the qualifications to use those frequencies;

(ii) there is a need for the proposed migration, including the unavailability to the party proposing the migration of other equally reliable frequencies at costs comparable to those for a system operating on frequencies between 1850 and 2200 MHz;

(iii) the party proposing such migration has in writing notified the party subject to migration (within a reasonable time sufficient to enable the parties to discuss entering into a voluntary agreement as described in paragraph (2)) of its intent to submit a migration proposal;

(iv) an alternative communications system for the party subject to migration would be available and would be at least as reliable in all respects as the communications system such party is operating at the time of the proposal; and

(v) the party proposing such migration will pay all costs associated with such migration and necessary to ensure the reliability of the alternative communications system, as such costs are incurred.

(C)(i) The Commission shall approve the proposed migration if the Commission finds that the migration proposal makes the demonstrations described in subparagraph (B) (i), (ii), (iii), (iv), and (v).

(ii) If the Commission does not make the findings described in clause (i), the Commission shall not approve the proposed migration.

(iii) If the Commission approves the proposed migration, the Commission shall provide that the party subject to migration shall be provided an adequate period of time in which to construct and test the proposed alternative communications system and to complete migration. The party subject to migration shall not be required to cease

using the frequencies between 1850 and 2200 MHz until the reliability of the alternative communications system has been established.

(iv) If the Commission approves the proposed migration, the Commission shall retain jurisdiction over the proposed migration to resolve all remaining disputes to ensure that the demonstrations described in subparagraph (B) (i), (ii), (iii), (iv), and (v) are made.

(d) The Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report which analyses the feasibility of allowing frequencies reserved for use by the Federal Government as of June 1, 1992, to be used by emerging telecommunications technology entities, or by any qualified private fixed microwave entity now operating on frequencies between 1850 and 2200 MHz.

(e) In this section, the following definitions apply:

(1) The term "Commission" means the Federal Communications Commission.

(2) The term "existing" means in operation on the date of enactment of this Act.

(3) The term "harmful interference" means any interference from any technology that exceeds the level of protection equivalent to that provided under section 94.63 of title 47, Code of Federal Regulations.

(4) The term "qualified private fixed microwave entity" means an entity licensed or permitted, or eligible to be licensed or permitted, under part 90 of title 47, Code of Federal Regulations, for Public Safety Radio Services, Special Emergency Radio Services, Power Radio Services, Petroleum Radio Services, and Railroad Radio Services.

Mr. HOLLINGS. Mr. President, we have been working with our distinguished ranking member of our Commerce Committee, the distinguished Senator from Missouri [Mr. DANFORTH] concerning the proposal of the Federal Communications Commission relative to assigning frequencies. As you well know, we have resisted over the years any interference from the Congress itself on assuming that kind of responsibility. It would envision all kinds of hearings and decisions that should be made by the administrative FCC and not by the Congress itself and, as chairman of the committee, I have always adhered to that particular principle and procedure.

However, earlier the Federal Communications Commission took up the matter of reassigning the current users of the 2 gigahertz band to make room for new technologies such as hand telephones and mobile phone services. The FCC held a hearing on this proposal that had some 22 witnesses from that particular new technology industry and only one representing the current users of the 2 gigahertz band. The users of the 2 gigahertz band encompass the public electric utilities, the private taxpayer-funded utilities as well as investor-owned utilities, the railroads, and oil, gas and water pipeline companies. You can go right on down the list of all of those that expressed tremendous concern about the reliability on the one hand, concern for safety on the other hand, and the expense, of course, of being forced to move to a different set of frequencies.

As a result, we included in the subcommittee markup what we thought was reasonable language that would protect these current users and at the same time allow new technologies to enter the market. We did not bar the FCC from going forward with its proceeding but we wanted to make sure that these concerns were noted here in this appropriations bill and it was reported by the full committee.

But now the distinguished Senator from Missouri, not agreeing by any matter or means to this particular amendment, has agreed to allow us to proceed with the following changes: That we change the 15-year protection to 8 years, that we remove the independent arbiter, giving the authority to the Federal Communications Commission, that we provide the utilities with notice before a proponent may file to move a utility, and that we require a proponent of a new technology to demonstrate that he needs those frequencies and no other frequencies are available before it can apply to move a utility.

It is a slightly complicated matter for those who are not familiar with the particular discipline assigning frequencies, but I think that generally sets out the understanding that we have in moving this particular amendment.

As I understand, the Senator from Missouri does not yield at all his rights to reconsider this provision on our authorization bill and the fact of the matter is if we can have a similar understanding on the authorization bill we would cut this out of the appropriations bill.

Mr. President, I would now like to explain this matter in more detail. In a proceeding numbered ET Docket 92-9, the Federal Communications Commission [FCC] has proposed to reallocate certain frequencies around 2 gigahertz [GHz] for new emerging technologies. In doing so, the FCC has proposed to downgrade the status of some of the existing users of these frequencies from primary to secondary after 10 to 15 years. This proposal could cause serious harm to the operations of electric power companies and rural electric cooperatives, railroads, and oil, gas, and water pipelines. These entities depend upon reliable microwave communications in the 2 GHz band to control the provision of their essential services to the public. While the FCC has proposed that these existing users could move their microwave facilities to other frequency bands, the FCC has not provided sufficient guarantee that the reliability of the communications services could be ensured in these new frequency bands.

For this reason, I added a new general provision to this appropriations bill in the subcommittee that ensures that the electric, railroad, oil, gas, and water pipeline companies that operate microwave communications systems in the 2 GHz band will continue to possess reliable communications systems. The provision ensures that utilities that currently use the 2 gigahertz band cannot be moved off that band for a certain period of time. Further, after this time period, the utility can only be required to move if it is established that other frequencies are available that provide equal reliability to the utility's current system. The provision also ensures that all costs associated with such a move will be paid for by the new technology that proposes the move. With these protections, a utility will not suffer any degradation of service and will not suffer any out-of-pocket costs.

This provision is supported by the National Rural Electric Cooperative Association, the American Public Power Association, the Large Public Power Council, the Association of American Railroads, the American Petroleum Institute, the Edison Electric Institute, and the Interstate Natural Gas Association of America.

Mr. President, I generally do not offer legislation concerning spectrum allocation matters at the FCC. I believe that these are matters that are often very technical in nature and should not be subject to the political process. In this case, however, the FCC has itself shown a lack of respect for the process involved in making frequency allocation decisions. The FCC has shown a blatant disregard for the legitimate concerns of the utilities who currently use this spectrum. For instance, the FCC held an en banc hearing last December at which only 1 of the 22 witnesses represented a utility, while the remaining witnesses represented advocates of new technology. In April of this year, I wrote a letter to the Chairman of the FCC indicating my strong concern about the FCC's proposal to move the existing users of this band. Several other Senators also wrote letters to me and to the Commission expressing their concern. In June, I held a hearing in the Commerce Committee specifically on this proposal. In each case, the FCC gave vague and noncommittal responses. In this situation, I believe that there is no choice but for Congress to offer legislation on this issue.

Contrary to some misrepresentations by proponents of new technologies, this provision does not stop new technologies from being deployed. This provision permits new technologies to use these frequencies on a shared basis with existing utilities. In other words, this provision allows new technologies to enter the market today as long as they do not interfere with the utilities who currently use those frequencies.

Let me clarify a couple of other points with regard to this provision.

First, this provision does not give the existing utilities a property right in the spectrum. The spectrum is a valuable public resource. This public resource must be administered by the Government on behalf of the general public; it cannot be handed out to or controlled by private entities. The provision I have crafted gives the FCC policy guidance on how to administer the spectrum with regard to its use by certain utilities that provide essential public services. This provision, for instance, does not give these utilities an absolute right to the renewal of their frequencies. A guaranteed renewal would be the equivalent of giving the utilities an ownership interest, or a property right, in the spectrum. I cannot support such a position. I do expect, however, that the FCC will continue to demonstrate great concern for the essential public service provided by these utilities in deciding license renewals. In most cases, utility license renewals have been granted on a routine, pro forma basis. I expect and encourage the FCC to continue to process renewal applications in this manner.

Mr. President, I would like to clarify one provision in section (c)(1)(E) regarding the meaning of the term "addition." It is my understanding that an "addition" refers to a new transmitter location that extends a fixed microwave system into a new geographic area in which the system has not previously operated.

Mr. GORTON. I want to lend my support to the efforts of Senators HOLLINGS, DANFORTH, and INOUYE to reach an agreement today on the issue dealing with a proposed FCC rulemaking involving the use of the 1.8 to 2.2 GHz bands.

This is an important issue to many of my constituents. I have heard from a number of present users of these bands in Washington State. These users include the very backbone of our State's infrastructure—electrical utilities, railroads, public safety officials, and others. I believe that it is absolutely imperative that any decision to require the relocation of these users must fully protect the present users both from cost impacts and equally importantly from any disruption or deterioration in the reliability of service.

Electrical utilities use microwave systems in Washington State throughout the generation, transmission, and distribution system. Some of the transmitters provide the means by which the central dispatch computers regulate the output of the plants to precisely match the demand for electricity. Others provide the data communication, or protective relaying by which power flows are instanteously rerouted when a power line is knocked out of service by a storm or other unforeseen event. Absent this protection, minor outages would become major blackouts.

The railroads in my State have also made heavy investments in microwave systems. These systems are used to communicate between crews, dispatchers, trackside signals, and other personnel and facilities necessary for the safe and reliable operation of the railroads.

Last, I have heard from a number of public safety officials in Washington State. They point out the need for quick and reliable emergency communications services. The 1.8 to 2.2 GHz band width is heavily used by public safety officials who believe that other band widths in Washington State will not meet their needs even if financial accommodations could be made to these users. In particular, western Washington, which is heavily populated, has severe physical restraints due to mountains and water which make the use of higher band widths far more difficult than on flat land.

I am also aware of the intentions of some companies to offer Personal Communications Services [PCS] and their desire to use the 1.8 to 2.2 GHz bandwidth. While we do not even know what all of these new services will be, they are sure to be exciting and on the cutting edge of technology. The amendment agreed to today will allow future private microwave users of PCS to share frequencies with existing microwave users if they do not cause interference. Existing users will retain primary status and not be forced to move. After 8 years, the amendment allows for the new user to seek arbitration at the FCC to force the existing user to move so long as compensation is provided and that a reliable new frequency is available. Voluntary efforts to encourage the incumbent user to move are allowed at any time.

Mr. President, this is not a perfect solution. It deals with a complex and technical issue and one that I had hoped would be worked out through negotiations at the FCC. Unfortunately, Mr. President, while discussions have taken place at the FCC, no acceptable agreement has been reached to date. I therefore wish to support the amendment before the Senate today.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I have long believed and frequently said that I think that the relationship that I am privileged to have with my chairman on the Commerce Committee is as good as any ranking member enjoys with any committee chairman in the U.S. Senate.

Senator HOLLINGS and I have been allies on a number of issues. We have been opponents on some. We have always enjoyed a remarkably cordial relationship and today is further proof of that fact.

I am frankly concerned about undue rigidity in locking in the status quo with respect to the assignment of specific frequencies by the Congress of the United States. I am sympathetic to the concerns of the railroads and the concerns of the utilities. They do not want uncertainty. I understand that. But it seems to me that in meeting those concerns we also have to build in a degree of flexibility so that new technologies can come on the scene, and to me this is a kind of issue that is better left for the Federal Communications Commission.

This particular issue was raised in connection with this appropriations bill at the appropriations markup last Thursday and it was represented at that time I supported the version of this that was in the markup at that time, and that really was not the case; I did not support it. And we have been working since to try to modify what has been in the bill, and we have met with a certain degree of success in doing that. But I want to indicate that while I appreciate the cordiality of my chairman, I am still not fully satisfied with the result and I want to make it clear that while I will agree to go along with the bill on the floor of the Senate, and while I would not object to a unanimous-consent request to incorporate this Senate appropriations bill into a House bill, at the same time I do want to reserve my options for the future, particularly in conference and on the conference report.

I also want to explore with my chairman the possibility of bringing this matter before the Commerce Committee. We have already had a hearing on the subject. We have never had a markup on the subject.

It would normally be the case, I think, that the authorizing committee would be the place to bring this legislation up.

So I take the floor merely to express my appreciation to the chairman and his staff for working over this past weekend, and also to serve notice of the fact that I am grudgingly going along, at least insofar as this bill is on the floor of the Senate. I am keeping my options open for the future.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I am very grateful to the distinguished Senator from Missouri for his cooperation and assistance in this particular regard this evening. I understand his misgivings. We have some of our own.

So we will be working together. I do appreciate it very much.

Mr. KERREY addressed the Chair.

The PRESIDENT OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I also appreciate the work the floor manager, the chairman of the Appropriations Subcommittee and the chairman of the Commerce Committee, has done in this regard.

It was my intent, over the weekend, to come to the floor and offer an

amendment to strike this provision altogether. I will now not offer that amendment. I will yield to the agreement that has been worked out, because I have a great deal of respect for both the chairman of this subcommittee and the chairman of the Commerce Committee, and the ranking member.

I would point out to my colleagues that not only is this an effort to do authorizing language on an appropriations bill, but, further, I would point out that essentially what this is is a group of people who are not happy with action taken by a regulatory agency, and so we are making an effort to not just overturn the action, but actually to overturn potential actions.

The FCC has only indicated they might, in the next 6 months, take this action. And we are, with this effort, saying to the FCC, you cannot take the action.

I pointed out to many of the folks in Nebraska who are concerned about this, that it is not uncommon that we have citizens say: We do not like the action taken by the regulatory agency. Can you do something in Congress? And typically, we say, no, as the distinguished chairman has just said.

My own concern with this delay in this has to do with my strong belief that communications technology, properly applied, could change, in a very dramatic and positive way, the nature of our capacity to educate our people. I look forward to the opportunity to discuss and talk about that at a later time.

I understand the reservations based upon previous experience with direct broadcast and the action the FCC took in the early 1980's would not result in an allocation of a ban in this particular case. I believe it is compelling, when you examine the likely applications, that we might, in fact, be blocking the development of significant jobs here in America. And as I indicated, I believe that we are potentially blocking applications that would be enormously beneficial to our people as they struggle to try to learn and train themselves.

All that having been said, I concur with the compromise. I appreciate very much the chairman's willingness not only to compromise this language, but to indicate a willingness at a later date to take up the additional concerns that I have.

I have a great deal of respect for his knowledge and understanding of this particular issue.

Mr. HOLLINGS. Mr. President, I want to thank my colleague from Nebraska for his understanding and cooperation.

The amendment has been cleared on both sides. I ask that the amendment be agreed to.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 2759) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I think we have to protect the quorum call here.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota seeks recognition.

Mr. DURENBERGER. Mr. President, I had intended to offer an amendment which would have increased the funding of the EEOC.

I wish to speak briefly to the subject and, if necessary, I ask unanimous consent to further set aside the matter that is pending before us so that I might speak to the amendment which I do not intend to offer.

Mr. METZENBAUM. Will the Senator yield?

Mr. DURENBERGER. Yes.

Mr. METZENBAUM. Do I understand that the Senator from Minnesota has no intention of offering any legislative proposal, but merely intends to speak?

Mr. DURENBERGER. The Senator from Ohio is correct.

Mr. METZENBAUM. I thank the Senator.

INCREASED EEOC APPROPRIATION

Mr. DURENBURGER. Mr. President, as I indicated earlier to the chairman of the subcommittee and the ranking member of the subcommittee, and others who are interested in the subject, I had intended, for the better part of the day, to offer an amendment to increase the funding for the Equal Employment Opportunity Commission, but I have been persuaded, both by them and by others, including a letter that I was given by the chairman of the subcommittee from the Attorney General, not to do that.

But I must express my deep concern—and I think it is concern that has been shared by members of the subcommittee, as well—about the adequacy of the funds available for enforcing two of the most significant civil rights laws that have ever been passed by this Congress: The Civil Rights Act of 1991 and the Americans with Disabilities Act of 1990.

We have all delivered impassioned speeches on this floor at the time those laws were considered. We consider them to be landmark pieces of legislation. But we really are not providing the resources, the financial resources, necessary to enforce them.

So despite all of the speeches that we gave and all of the promises that we made to the American people, we really cannot stand here today and say we intend to make a reality of civil rights for women, or civil rights for people with disabilities, unless we can guarantee the funds for enforcement.

I must say that the EEOC is an impressive organization. It is the Nation's lead civil rights enforcement agency. It is responsible for enforcing much of the Civil Rights Act of 1991 and title I of the ADA. For more than 10 years, Congress has cut this small law enforcement agency's budget in real dollar terms and we are about to do it again at a most critical time.

EEOC receives more than 60,000 charges per year. The Civil Rights Act of 1991 and the ADA will add another 15,000 to 20,000 charges annually for the EEOC to investigate. Yet the House and Senate Appropriations Committees have effectively not given them one penny to enforce these new laws.

Mr. President, the EEOC is recognized as a model Federal agency and has won awards for it management initiatives.

And lest you think they are the kind of organization that sits on its duff and does nothing, the reality is it is probably the most productive of any other Federal agency. EEOC's investigators investigate an average of 88 cases per year, nearly three times as many as the next closest Federal agency with a similar responsibility.

But, Mr. President, EEOC has reached the breaking point. Without additional resources, it is going to be very difficult to enforce the Civil Rights Act and the ADA. Even the House Appropriations Committee report on Commerce, Justice, State, the Judiciary and related agencies fiscal year 1993 (Report 102–000) states that:

> The Committee recognizes that this amount may not be sufficient to allow the EEOC to carry out the provisions of the ADA and the Civil Rights Act of 1991 adequately and continue its ongoing workload under existing statutes.

And the House provided $6 million more than the Senate did.

The administration requested $245 million of the EEOC in 1993. The Senate Appropriations Committee last week approved $212 million. If this is EEOC's budget for next year, we have not just placed the final straw that broke the camel's back—we may well have killed the camel.

The reality is, though, they have found themselves in a bind.

I will let the chairman speak for himself, but the committee concluded that if the administration wants to try to help the implementation of that act and if the administration is willing to deal more appropriately with funds that are allocated for the Justice Department and funds that are allocated for EEOC, that it would be up to the people at the Department of Justice and in the administration to make those kinds of decisions.

In order to get the $32,359,000 that is necessary, rather than propose that

Justice transfer all that money to EEOC, I was going to propose they transfer half; that we appropriate half of it tonight and allow Justice the discretion to do it in the future.

I am left without this amendment. We are left in the position where we must rely on the Justice Department to make as much of that $32,359,000 transfer as we possibly can.

So I must stand here and remind my colleagues of the difficulty of being on the Appropriations Committee, I guess, but also remind my colleagues of the extreme difficulty we face in passing legislation on one hand, and not providing the resources to enforce it on the other. It is not only discouraging to the people involved, it is discouraging to the folks at the EEOC.

It is not only discouraging to the people involved, but it is discouraging to the folks at EEOC, the men and the women who have to take on the responsibility of responding to the enforcement authority in this law.

So, I will not offer the amendment, but I do urge the President and I urge the Attorney General of the United States to take this matter seriously, and I urge my colleagues to join in that request so that the appropriate funds to enforce these two very important laws, the Civil Rights Act and the ADA, will be available.

Mr. President, I will yield the floor.

The PRESIDING OFFICER. The Senator from Ohio [Mr. METZENBAUM].

AMENDMENT NO. 2752

Mr. METZENBAUM. Mr. President, it is time for us to take stock of where we are. The Senator from New Hampshire has offered an amendment. The Senator from Ohio feels very strongly about it, feels it impacts upon the legislative rights of the people of the District of Columbia. It does not belong on an appropriations bill, the Chair ruled. There was an appeal from the decision of the Chair, and this body indicated that they were willing to consider the amendment. That indicated it probably would have the votes to pass. The Senator from Ohio is strongly against it.

That amendment at this moment is subject to a second-degree amendment. The Senator from Ohio has a second-degree amendment to attach to this bill, a striker replacement law as a second-degree amendment. But I have been around here long enough to know that, if I were to do that, then many on the other side of the aisle would see fit to engage in a lengthy discussion. And I believe that this body too often finds itself engaged in useless effort and a waste of time. I am now satisfied that this amendment before us will not survive the conference committee, as it should not, because it is obviously not relevant to the appropriations bill. So, rather than play the games we play around here offering a striker replacement bill as a second-degree amendment, I think the more responsible thing is to permit it to go forward with the understanding that it will be dropped in the conference committee.

It is fair to say that no one can say that with absolute certainty. The conference committee consists of representatives from both sides of the aisle and representatives from both bodies. But I am satisfied it will not remain in the bill.

Under those circumstances, rather than offer an amendment to the amendment and tie up this body for a considerable length of time to no useful end, my concern is that the people of the District of Columbia have the right to enunciate their views, to make their decisions, and not to have the Congress of the United States tell them what to do.

So I will not offer the amendment unless I am misinformed as to what is contemplated in the conference committee.

Mr. BAUCUS. Mr. President, last year the District of Columbia passed a law which establishes the right of a victim of a criminal attack by a person using a so-called assault weapon to sue the manufacturer of the firearm for damages.

The net effect of this law is to hold manufacturers of semiautomatic firearms to a standard of absolute liability. Such a result sets a dangerous precedent. This logic holds that a firearm is capable of acting independently to commit an illegal and harmful act.

Traditional tort liability standards have long held that manufacturers may be held responsible for the uses to which their products are put when it can be shown that there is a manufacturing design or defect.

Absolute liability standards, on the other hand, are generally limited under tort law to activities or products which are deemed to be ultrahazardous. The use of explosives, for example, is one such activity to which absolute liability applies.

The reasoning behind an absolute liability standard is that regardless of the actions taken to minimize the hazards, the activity is so inherently dangerous that unforeseen consequential harm cannot be ruled out and thus must be accounted for by law.

Including firearms manufacturers in this category skews the criminal responsibility equation away from the user, in this case the criminal, and places it squarely on the manufacturer.

Any firearm can be dangerous if used in an improper or criminal manner. However, the vast majority of gunowners do not act in such a manner.

Moreover, suggesting that a firearms manufacturer should be held accountable for a criminal's actions is an absurd denial of centuries of American and English jurisprudence.

To those who believe that this is a home rule issue which should not be addressed by the Congress, I believe that nothing is farther from the truth. The applicability of such a standard could be expanded beyond firearms manufacturers.

As a precedent, it could apply equally to almost any product or service. For instance, automobiles, alcohol, and pharmaceutical drugs are products which come readily to mind which could potentially be affected.

Mr. President, the District law attempts to restrict the constitutional right to keep and bear arms. It narrows the choices which are available to an individual who wishes to own a firearm.

Manufacturers will look at the economics of semiautomatic manufacture given the implications of absolute liability and decide that it is no longer feasible to produce semiautomatics. Therefore, semiautomatic weapons will no longer be available to law-abiding citizens who wish to own them and use them for hunting, collecting, or target practice.

I sympathize with those who are attempting to deal with the violence that is becoming the norm in our Nation's Capital. I cannot, however, accept the convoluted logic that is behind a law which has no impact on crime but has the worst of impacts on American industry.

I support the Smith-Dole amendment to overturn this misplaced law, and urge my colleagues to do likewise.

Mr. HOLLINGS. Mr. President, momentarily, until we get this understood and finalized, I ask unanimous consent we set it aside so we can put a perfecting amendment to the Danforth and Hollings amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2760 TO AMENDMENT NO. 2759

Mr. HOLLINGS. Mr. President, for Mr. BUMPERS, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. BUMPERS, proposes an amendment numbered 2760.

On page 3, line 20, of the Hollings amendment, add at the end the following: "(except where such entity is a State or local government, or an agency thereof)".

Mr. HOLLINGS. Mr. President, that language right there is clear to the point, "except where such entity is a State or local government"—namely, the police departments use this frequency, and we wanted to protect them. That was just a perfecting amendment.

Mr. BUMPERS. Mr. President, I rise today to commend the managers of this bill for accepting my amendment regarding spectrum allocation in the 2 GHz band. As drafted by Senator HOLLINGS, section 611 of the appropriations

bill for the Departments of Commerce, State, and Justice and the Judiciary was a wise and necessary proposal. This amendment will improve upon section 611 in one important respect.

My amendment will preserve and codify the grandfathering of the right of State and local governments to retain the portions of the 2 GHz band of the radio spectrum which they now control for use by public safety agencies. This amendment will, in effect, write into law, the current proposed rule of the Federal Communications Commission, issued last January, that provides for indefinite grandfathering of the rights of public safety users of the 2 GHz band. The FCC proposed rule would respect the priority of public safety users of the spectrum, as provided for by law.

I welcome the advances in communications technologies which are making the 2 GHz band so desirable to the companies which are pioneering those innovative technologies. Yet, I believe that we must give public safety clear priority in spectrum allocation, just as provided for in the Communications Act.

This amendment will protect public safety agencies of the State and local governments from being subjected to the danger of forced relocation to less desirable bands of the spectrum. As a result, the safety of our citizens will not be subject to competition or pressure from powerful private interests, and the resulting forced migration to other bands of the spectrum that might cause diminution of the capabilities of police, fire, and other public safety agencies. At the same time, where the public interest would be served, public safety agencies will be free to negotiate with private interests who desire the portions of the 2 GHz band now held by those agencies.

The value of the 2 GHz band to public safety users cannot be measured merely in dollars. If public safety users of the spectrum were forced to yield to market forces in the competition for spectrum, the results could be disastrous. For example in my State of Arkansas, at a cost of over $30 million, the State police have recently completed a statewide state-of-the-art microwave mobile communications system, which operates on the 2 GHz band. If they were forced to migrate to a higher band on the spectrum, that new system would be rendered a wildly expensive white elephant.

Replacement of that system could cost the taxpayers of Arkansas $100 million or more. Furthermore, there's no telling what the cost in confusion, accidents, and lost lives would be if public safety communications throughout Arkansas were forced to migrate to a higher band. It's a loss from which the people of Arkansas could never really be made whole.

This amendment leaves us with the best possible outcome: Public safety is protected indefinitely, utilities are temporarily protected, and private interests are free to compete in the marketplace. Each of these users of the spectrum is left with an outcome appropriate to its power in the marketplace and its importance to the community. I thank the managers for accepting this amendment.

Mr. RUDMAN. Mr. President, I inquire, because there is the possibility on our side that there is a request for a rollcall vote on a Dole substitute, if I could give it a few moments to see if maybe that request could be dealt with? I am not sure it can be. In the meantime, the chairman could possibly proceed with the amendments of Senator SEYMOUR, who has three amendments which we have both agreed to.

Mr. HOLLINGS. Let us adopt this one and then proceed to the Seymour amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2760) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2761

(Purpose: To require ongoing revisions on Border Patrol hot pursuit policy)

Mr. SEYMOUR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside and the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 2761.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

INS BORDER PATROL HOT PURSUIT POLICY

SEC. . CHANGES IN CURRENT BORDER PATROL HOT PURSUIT POLICY.

(a) IN GENERAL.—The Attorney General, after consideration with the Commissioner of the Immigration and Naturalization Service, shall revise and implement, by not later than January 1, 1993, U.S. Border Patrol Pursuit policies which shall improve safety and prevent future accidents such as that which occurred in Temecula, California, on June 2, 1992.

(b) IMMEDIATE ACTION.—The Attorney General, after consideration with the Commissioner of the Immigration and Naturalization Service, not later than 30 days after enactment of this Act shall—

(1) implement a schedule of stationing available helicopters at border checkpoints to assist in hot pursuit events;

(2) implement an effective communications system between INS, Border Patrol, and local and state law enforcement agencies, which effectively incorporates state and local law enforcement officials in the pursuit and apprehension of fleeing suspect vehicles.

Mr. SEYMOUR. Mr. President, last month, five innocent bystanders were tragically killed when a truckload of suspected illegal aliens, fleeing border patrol officers, ran a red light and crashed into a car and careened into two children walking to school in Temecula, CA.

The tragedy of this accident is that it could have been prevented.

Current Immigration and Naturalization Service vehicular pursuit policy allows U.S. border agents to pursue fleeing suspects at high speeds through residential neighborhoods.

This amendment I am offering today would simply require the Attorney General, in consultation with the Commissioner of INS, to implement a schedule of stationing helicopters at U.S. border check points to assist in the event of hot pursuits.

While serving as mayor of the city of Anaheim, CA, a similar untimely death occurred. After investigation, we found that use of helicopters in surveillance helped in these hot pursuits, that is helped to protect life and avoid the kind of tragedy that occurred at Temecula.

Additionally, this amendment would require INS to coordinate communications with State and local law enforcement officials to assist in the pursuit and apprehension of fleeing suspect vehicles. These changes would be implemented no later than 30 days after enactment of this act. Officials at INS have stated their intent to make changes in communication procedures, however, I have set a deadline to ensure these changes are made in a timely manner.

Finally, my amendment would require the Attorney General, in consultation with the Commissioner of the Immigration and Naturalization Service to revise existing border policies by January 1, 1993, to, additionally, improve safety to prevent future accidents such as the tragedy that occurred.

The amendment has been accepted on both sides. I urge its adoption.

Mr. HOLLINGS. The amendment has been cleared on both sides.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2761) was agreed to.

AMENDMENT NO. 2762

(Purpose: To require a report on the Prisoner Transfer Treaty Between the United States and Mexico)

Mr. SEYMOUR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 2762.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . REPORT ON PRISONER TRANSFER TREATY BETWEEN THE UNITED STATES AND MEXICO.

(a) FINDINGS.—Congress finds that—

(1) the number of aliens who come into this country illegally continue to be at enormously high levels;

(2) a greater proportion of aliens who come into this country illegally do so for the purpose of participating in organized drug trafficking or other criminal operations, or engaging in criminal activity within the United States;

(3) alien involvement in criminal activity nationwide has risen sharply during the past decade;

(4) the number of convicted criminal aliens in State prisons and local jails has risen sharply;

(5) in some jurisdictions, one out of every four prisoners in local jails is a criminal alien;

(6) the rise of criminal alien population has placed enormous costs on State and local governments and the taxpayers in the area;

(7) policies and programs that result in the expeditious deportation of criminal aliens from the United States are needed;

(8) one method to expedite the deportation of criminal aliens is to establish prison transfer programs where a convicted alien serves all or a portion of the sentence in his or her home country; and

(9) a determination of the methods and the costs to implement effective alien transfer programs in needed.

(b) IN GENERAL.—Not later than April 1, 1993, the Secretary of State and the Attorney General shall submit to the appropriate committees of the Congress, a report that describes the use and effectiveness of the Prisoner Transfer Treaty (hereafter in this section referred to as the "Treaty") with Mexico to remove from the United States aliens who have been convicted of crimes in the United States.

(c) USE OF TREATY.—Such report shall include a statement of—

(1) the number of aliens convicted of a criminal offense in the United States since November 30, 1977 who would have been or are eligible for transfer pursuant to the Treaty, and, of such number, the number of aliens who have been transferred pursuant to the Treaty, and, of such number, the number of aliens transferred and incarcerated in full compliance with the Treaty; and

(2) the number of aliens in the United States who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the Treaty, and, of such number, the number of aliens incarcerated in State and local penal institutions.

(d) EFFECTIVENESS OF TREATY.—Such report may include a list of recommendations to increase the effectiveness and use of, and ensure full compliance with the Treaty, as well as transfer programs initiated by State and local governments. Such recommendations may include—

(1) changes and additions to Federal laws, regulations and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(2) changes and additions to State and local laws, regulations and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(3) methods for preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the Treaty;

(4) a statement by officials of the Mexican Government on programs to achieve the goals of and ensure full compliance with the Treaty;

(5) a statement as to whether recommendation would require the renegotiation of the Treaty; and

(6) a statement of additional funds that would be required to implement the recommendation.

Such recommendations in paragraphs (1) through (3) may be made after consultation with State and local officials in areas disproportionately impacted by aliens who have been convicted of criminal offenses.

(e) IMPLEMENTATION.—The Attorney General and the Secretary of State shall implement no later than May 1, 1993, any administrative and regulatory recommendations as described in subparagraphs (d)(1).

Mr. SEYMOUR. Mr. President, each day it is estimated more than 8,000 aliens illegally cross our southern border. Only 2,700 of them, roughly one-third, are apprehended at the border itself. Certainly, many who cross the border are seeking opportunity, fleeing poverty and repression. However, more and more who cross our border come into the country seeking a different kind of opportunity—criminal opportunity. More and more aliens come into the country to traffic drugs, the foot soldiers of international Narcotraficante.

The evidence of the growing number of criminal aliens can be found in my State of California. Deportations at California's southern border surged to more than 500,000, the highest number since 1976.

In Los Angeles, one out of four inmates in county jails is a criminal alien. In the entire State of California, 1 out of 10 criminal aliens.

Mr. President, this amendment before us will make a real difference to that problem—to alleviate the burden on State and local governments by requiring the Attorney General and the Secretary of State to make changes in policy with respect to the 1977 Alien Transfer Treaty. Specifically, this treaty allows for the transfer of criminal aliens to their home country to serve all or a portion of the sentence they received for crimes committed in the United States. My amendment will require a thorough study of the effectiveness of this treaty, and the implementation of any changes needed to improve the effectiveness of the treaty.

We must pursue policies that get criminal aliens out of our country and out of our home and deported to their country of origin as quickly as possible. This amendment is designed to accomplish that important goal. This amendment has been agreed to by both sides. I ask for its adoption.

The PRESIDING OFFICER. Is there further debate? If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2762) was agreed to.

AMENDMENT NO. 2763

(Purpose: To make available funds for 20 additional immigration judges.

Mr. SEYMOUR. Mr. President, I have a third amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 2763.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. —. PAYMENT OF SALARIES OF ADDITIONAL IMMIGRATION JUDGES

(a) The Attorney General shall evaluate the ability of the existing level of immigration judges to the Executive Office of Immigration Reform to meet its current and anticipated workload for fiscal year 1993 and the possibility of reprogramming of immigration examination fees to support additional immigration judges and personnel.

Mr. SEYMOUR. Mr. President, I rise to offer an amendment that will be of great assistance to the Federal Government's efforts to meet one of its major immigration responsibilities: to effectively and expeditiously deport convicted alien felons.

For many regions of the Nation, especially along the Southwest border, the growing presence of alien felons in our county jails and State prisons is a severe and costly problem. The State of California alone spends more than $250 million each year to identify, prosecute, incarcerate and deport alien felons. As my colleagues know, the deportation of convicted aliens the minute they are released from prison was identified by Congress as a top priority when they enacted the Immigration Act of 1990. We must not retreat from this goal.

But simply identifying this problem is not enough. We must make the necessary funding decisions to attack the problem and meet the priority. Modest but important steps have been taken by the Senate that reaffirm our commitment to this issue. Last year, the Senate adopted an amendment that I offered to the comprehensive crime bill which would create a new civil fine imposed on any individual who induces or coerces an alien to commit an aggravated felony. The money collected

from this fine is to be deposited in the criminal alien identification and removal fund and used to assist the INS and the States to identify and deport alien felons and to fund any of the 20 additional immigration judge positions created under last year's immigration bill.

The amendment that we have before us right now, Mr. President, also represents an important step. This amendment will authorize the Attorney General to investigate its current personnel and work levels and hire, if needed, any additional immigration judges and support personnel that were called for in last year's Immigration Act. It is my expectation that this additional support is needed if we are to move closer to reaching our goal, one that will result in alien felons taking their first step outside a prison into a waiting vehicle, its destination beyond the borders of our Nation. This amendment will be of great importance to our efforts toward assisting the INS and the States in their efforts to identify and deport alien felons.

Mr. President, this amendment has been reviewed and accepted by both sides. I ask for its immediate adoption.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2763) was agreed to.

Mr. SEYMOUR. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

INDICATION OF VOTE

Mr. SMITH. Mr. President, Senator KASTEN, who was unavoidably detained on rollcall vote 152 on the Smith amendment, asked me to indicate that had he been present, he would have voted no, which would have been a vote in favor of the Smith amendment. Also, Senator KASTEN favors the Dole substitute as well.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RUDMAN. Mr. President, I just want to inform the chairman of the subcommittee that a vote which I thought might be required on the Dole substitute is now not required.

I understand that Senator SMITH has a brief statement that he would like to make, very brief, about another colleague of ours who was not here on the last vote, at which time I believe we will then voice vote if that is satisfactory with everyone.

Mr. HOLLINGS. That is satisfactory with the Senator from Ohio.

Mr. RUDMAN. I yield the floor.

The PRESIDING OFFICER. The junior Senator from New Hampshire.

Mr. SMITH. Mr. President, I will just say to my colleague, while he was conversing, I gave the statement and I do not wish a rollcall vote. I am prepared to proceed whenever the managers are.

Mr. RUDMAN. Mr. President, I then urge the adoption of the amendment.

AMENDMENT NO. 2753 TO AMENDMENT NO. 2752

The PRESIDING OFFICER. Is there further debate? If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2753) was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair informs the Senator that we still have the first-degree amendment, as amended, to be acted upon.

The question is on agreeing to the amendment, as amended.

The amendment (No. 2752), as amended, was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion of the table.

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DASCHLE). Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I rise today in support of the Commerce, Justice, State appropriations bill. This bill has an important provision to significantly expand community policing programs in Maryland.

Mr. President, this bill includes $500,000 that will be split between Prince Georges County and Baltimore City to expand their efforts to take back the streets from criminals and drug dealers.

When you hear the words community policing, you may not think of gun battles and high-speed chases. But community policing is strong, effective crime control.

Let me tell you about something that's taking place not too far from here in Prince Georges County.

In Prince Georges County police have taken to the streets in some of the highest crime areas. They know the neighborhood, and they walk the beat.

In Prince Georges County, the community has also gotten involved. Interfaith Action Communities has worked closely with the police department to educate the community and provide the assistance the police officers need.

The policeman is the vision of officer friendly that we all remember. He plugs himself into the neighborhood and finds out where the hot spots are.

More importantly, his presence and the intelligence he gathers help him disarm the criminals before the violence even starts.

Results, you bet. Crime in community policing areas in Prince Georges County has decreased dramatically. Drug-related calls in one area have dropped 45 percent. The number of crack houses in another area have dropped from 42 to 11 sites.

Mr. President, I say that's being tough on crime. With this program the policemen win, the residents win, and the criminals lose.

By training a community policing force, we are taking a new and innovative approach to fighting crime.

Community policing takes the best of the traditional approach of the officer walking the beat and combines it with the best in new technology.

It's making our neighborhoods safe again for residents to sit out on their porch and for kids to play ball on the street.

Capt. Terry Evans of the Prince Georges County Police Department recently said, "It's the only thing I've seen in 23 years of law enforcement that's had an impact, actually turned it around."

Community policing is also being developed in Baltimore City. Officers are being trained to work closely with the neighborhood in dealing with possible violent crime problems in the future.

Right now there are pilot programs being developed in east and west Baltimore. Police are building the neighborhood support. This grant will bolster those efforts.

Mr. President, this grant is a step toward recognizing that community policing has arrived and it's a needed tool for taking back our streets.

It's a proven method that we need to expand and make a major weapon in fighting crime in our neighborhoods.

DEFENSE ADJUSTMENT FUNDS

Mr. PELL. Mr. President, I am delighted to note that the fiscal year 1993 appropriations bill for Commerce, Justice, and State and related agencies provides $80,000,000 for economic adjustment grants by the Economic Development Administration of the Commerce Department to assist communities impacted by defense contract reductions and by closures of defense installations.

This authorization will augment the $50 million we provided in the context of the fiscal year 1991 Defense Authorization and Appropriation Acts for pass-through funding of EDA for defense adjustment purposes.

This augmented funding should breathe new life into the Economic Development Administration, which has been a candidate for closure under administration budgets for the past decade. But the survival of EDA is now clearly justified by the present need for creative intervention in the wake of post-cold war defense reductions.

Already several communities from my State of Rhode Island are applicants for economic adjustment grants from EDA as they face the burden of adjusting to cancellation of the *Seawolf* program at a time when the State's unemployment has soared to 9.7 percent.

I commend the Senator from South Carolina [Mr. HOLLINGS] and the members of the committee who have brought this bill to the floor for their attention to the recommendations of the Task Force on Defense/Economic Conversion, which was chaired so ably by the Senator from Arkansas [Mr. PRYOR]. They have done a responsible job in giving form and substance to the several recommendations of the task force, and the Nation will be better for it.

Mr. KOHL. Mr. President, I commend the work of the Appropriations Committee in meeting the Nation's need for fiscal restraint. It is a difficult job with many conflicting priorities to sort out, and Senator HOLLINGS had provided the leadership to resolve those issues. I would like to speak today about the funding for the Bureau of the Census and the Bureau of Economic Analysis. Let me first address the Census Bureau.

I have followed closely the activities of the Census Bureau, and am one of their biggest supporters. However, as we move away from the 1990 census and toward the 2000 census it is reasonable to expect some decline in their budget. The activities of one are coming to a close, and work on the next census is just beginning.

At a recent hearing by the Subcommittee on Government Information and Regulation, I indicated that efficiency is one of the challenges that faces the Census Bureau during this decade. The Census Bureau must find ways of doing its job more efficiently, and Congress must stop initiating new statistical programs without funding them.

I will continue to oversee the Census Bureau's activities and urge them to increase productivity.

I am concerned that increased productivity will not substitute for the proposed cut—a 1-year cut of 15 percent—from the agency's request. The implication of the Senate Appropriations bill is that there will be no new statistical initiatives, some programs will have to be cut, and the necessary research to improve productivity will be attenuated.

I am not going to offer an amendment tonight to reverse these cuts. However, I hope that in conference the committee will reconsider this funding level. I am concerned that if the Senate funding levels are maintained we could lose valuable ongoing programs such as:

County Business Patterns, the only comprehensive information for States and communities;

The Pollution Abatement Survey, which is critical for environmental policy and planning;

The Quarterly Plant and Expenditure Survey, which provides current information and future expectations of investment by industry.

In addition, this funding level could weaken the quality of the agricultural and economic censuses, and some of the information collected in the 1990 census will not reach the public which paid for it.

The failure to fund any new initiatives continues Congress' unwillingness to invest in the statistical infrastructure. I hope my colleagues will remember this the next time the inaccuracy of one of our economic indicators leads to misguided economic policy.

Finally, this funding level could endanger the fundamental reform the Congress has pushed the Census Bureau to undertake. It is folly to ask for fundamental reform and then fail to fund the research to provide that reform.

Many of the arguments about the Census Bureau also apply to the Bureau of Economic Analysis. The funding level proposed by the Appropriations Subcommittee could result in some programs being terminated, others weakened, and necessary research neglected.

The Census Bureau and the BEA are integral parts of the foundation of our statistical system. As we neglect repairs in that foundation we risk the integrity of the entire structure.

GENE PATENTING ISSUES

Mr. HATFIELD. Mr. President, one of the Federal agencies that receives funding under this legislation is the U.S. Patent and Trademark Office. As we proceed through this bill, I believe it is appropriate to highlight some of the grave concerns that are shared among several of my colleagues regarding an issue that rests squarely at the doorstep of the Patent Office.

The issue I refer to relates to the patenting of life. Since 1987, I have sponsored legislation to place a 5-year moratorium on the patenting of genetically altered animals, and succeeded in enacting a 1-year moratorium in 1987. One mouse, developed by researchers at Harvard University, was nevertheless patented in February 1988 following the expiration of this moratorium. Over 150 animal patents are currently pending.

Last year, the NIH caused a firestorm of controversy when it announced that it planned to seek patents on 340 sequences of genes from the human brain. A few months later, the NIH applied for patents on over 2,000 more human gene sequences, further complicating a very difficult policy question. The Patent Office has yet to rule on whether these gene sequences are patentable.

I am troubled that such monumental policy decisions have fallen solely on the shoulders of the U.S. Patent Office. The underlying ethical decision transcends our national borders, environmental policy, the profit motives of the marketplace, and our century-old patent laws.

It is my belief that this body must take a more active role in policy development in this area. In the past, Congress has attempted to initiate such a policy process. We established the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research in the 1970's and the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research in the 1980's. A Biomedical Ethics Advisory Committee was established in 1985.

Unfortunately, none of these efforts remains in place today to aid this body, government agencies, or the scientific community in developing a rational biomedical ethics policy. No congressional review board or advisory committee currently exists to make reports and recommendations to the legislative branch. In recent years, the ethical, economic, and environmental concerns about this technology have become more acute. Recent actions by researchers at the National Institutes of Health [NIH] underscore the urgent need for congressional oversight of this field.

Earlier this year I raised this issue in connection with the National Institutes of Health reauthorization bill and received commitments from Senators KENNEDY and DECONCINI to hold hearings in both the Labor and the Judiciary Committees pertaining to this issue. I am pleased to inform my colleagues that a hearing on gene patenting will be held before the Senate Judiciary Committee on September 22, 1992.

In addition, I am also working with interested colleagues to request a study in this area from the Office of Technology Assessment. I am aware of the ongoing work of the Committee on Life Sciences and Health, Federal Coordinating Council for Science, Engineering and Technology's [FCCSET] Genome Working Group in this area and look forward to reviewing its report.

It is my firm hope that these various avenues of inquiry will result in a more carefully defined Federal approach to policy in gene patenting. Congress has

a responsibility to carefully consider the broad ramifications of the technologies it encourages through patenting.

I raise this in connection with the pending legislation because I want the Patent Office to be aware of the substantial ongoing efforts in this area. It is my hope that these efforts will be considered carefully in connection with any action the Patent Office proposes to take with respect to the thousands of relevant patent requests that it is currently reviewing.

SECTION 502

Mr. KERRY. Mr. President, I wanted to clarify one point with my colleague from South Carolina, and that relates to section 502 of the bill. This section permits the Department of State to transfer not more than 5 percent of an appropriations account to another appropriations account within the State Department. I applaud this effort to give the Department necessary budget flexibility. At the same time, however, I want to clarify that this provision will not allow the Department to transfer funds into an account in excess of authorized levels.

Mr. HOLLINGS. The Senator is correct. We did not intend this provision to allow transfers into an account in excess of levels contained in authorizing legislation.

Mr. HATFIELD. Mr. President, I would like to take this opportunity to compliment the chairman and the ranking member on the fiscal year 1993 Commerce, Justice, State appropriations.

This bill provides important increases for Justice programs, the National Institute of Standards and Technology, and Mitchell Act salmon hatcheries on the Columbia River.

In addition to these program increases, the bill provides $2 billion for the U.S. Information Agency. This represents a $111.7 million increase over the fiscal year 1992 level.

This USIA increase will provide new programs in the republics of the former Soviet Union, including the establishment of America Houses; will provide an enhancement for the Fulbright Program within the educational and cultural exchanges account; expand the East-West Center; and to establish a new center of technical assistance for the Russian Far East.

Overall, given the difficult allocation for this subcommittee, I think this is a well-balanced and well-crafted bill. A bill that provides additional resources for our war on drugs and responds to the challenges of the emerging democracy of Eastern Europe and the former Soviet Union.

Mr. KOHL. Mr. President, as chairman of the Senate Subcommittee on Juvenile Justice, I wish to commend my distinguished colleague from South Carolina for his leadership on juvenile justice appropriations.

We all agree that the juvenile justice system is in serious trouble. Some 700,000 juveniles enter the justice system each year. Every year we spend close to two billion in State and local dollars confining too many of these young people in facilities with recidivism rates that make them schools for crime. And in recent years we have seen an upsurge in arrests of adolescents for murder, assault, and weapon use.

Given these facts, some critics assert that the juvenile justice system—designed in earlier decades to handle so-called nicer kids—is virtually incapable of handling violent teens and protecting our communities. They conclude we should transfer all such juveniles to adult court and place them in adult prisons.

We all agree there is a problem. But my view of the juvenile justice system—shaped by visiting juvenile courts and detention centers, and presiding over subcommittee hearings—suggests we do not have to transfer all juveniles to adult court. We need to reform the juvenile system—not throw it all away.

In his appropriations bill, Senator HOLLINGS has increased funding for juvenile justice programs several million dollars above fiscal year 1992 appropriations levels. Although he and I would like to see further substantial increases, our current deficit precludes the Senate from so acting at this time. Given this budget climate, I commend Senator HOLLINGS for his leadership in refusing to cut funding for juvenile justice. The administration recommended a 90-percent budget cut, which the subcommittee resoundingly rejected. I urge my colleagues in the Senate to follow suit.

TRANSFER OF ASSETS FORFEITURE FUNDS FOR OPERATION CADENCE

Mr. McCONNELL. As my colleagues know, I am a strong advocate of programs related to juvenile justice and missing children, and appreciate the funding commitments they made in this bill.

I would also like to compliment my colleagues on the strength of the overall bill. In this highly charged political year, it is a welcome relief to act on legislation so crucial to the implementation of our international trade, law enforcement, and diplomatic efforts.

With regard to this broader, intentional agenda, I would like to take a moment to ask the chairman and ranking member of the subcommittee a few questions about their understanding of the foreign activities which the Department of Justice may support with resources available in the assets forfeiture fund. I am particularly concerned about use of this fund to expand or enhance DEA programs and personnel in Guatemala.

It is my understanding that the bill allows the Attorney General to transfer to other agencies roughly $50 million in unobligated 1992 balances.

Mr. HOLLINGS. My colleague is correct. The committee recommended that these funds be made available to procure vehicles and equipment and other capital investment for law enforcement, prosecution, and correctional activities. The $49,990,000 available in unobligated balances is expected to support nonrecurring expenses including $2.5 million for DEA's Operation Snowcap and Operation Cadence in Central and South America.

Mr. McCONNELL. As my colleague knows, there has been considerable discussion and effort by DEA to arrange the transfer of Blackhawk helicopters from the Defense Department to DEA and then use the forfeiture fund to retrofit the aircraft for deployment to Guatemala. I have read the chairman's letter to the Attorney General and was very impressed by the arguments he made opposing the use of the fund for these purposes.

There is absolutely no doubt about our mutual commitment to support drug interdiction efforts and the officers who wage this war. However, as the chairman and ranking member well know, we face tighter and tighter budget restraints which compel us to carefully assess spending priorities. When I was briefed on the expansion of Operation Cadence in Guatemala, I was troubled by DEA's apparent failure to coordinate with other agencies in defining both the threat which required this expansion and the resources available to combat the problem.

It struck me that this expansion was about competition between agencies not coordination. Customs and Coast Guard have been extremely successful in carrying out drug interdiction efforts in the Caribbean, and the State Department's International Narcotics Bureau has maintained a small, but effective air wing in Guatemala carrying out eradication missions and supporting DEA programs. I simply do not understand the logic of starting up a brandnew air wing on top of existing Customs, Coast Guard, and INM capabilities. Why are we thinking about duplicating existing resources which are not only in place but successfully carrying out their designated missions?

Now, if the job cannot get done—if our priorities have changed or there are new requirements—we should take a look at how we can improve our existing air wing before we finance and launch DEA in the international aviation business with new, very expensive, high technology aircraft. We cannot afford independent, competitive air wings when every agency, every program is competing for scarce resources.

With these reservations, and knowing of the chairman's concerns about this program, I seek his assurances that no money available in the assets forfeiture fund, nor any other account appropriated in this bill, will be used to deploy Blackhawk helicopters along with

DEA personnel to Guatemala. In particular, I want to know whether it was the committee's intention that report language referring to procurement and retrofitting of equipment and designating $2.5 million for Operation Cadence was intended to permit or include an independent DEA air wing in Guatemala.

Mr. HOLLINGS. I appreciate the Senator from Kentucky's raising these issues. I was and am concerned that the air operations which DEA plans to conduct in Guatemala present a risk to DEA personnel and equipment which outweighs the potential benefits. So, I do share the Senator's misgivings and I can assure him that it is not the committee's intention to permit the assets forfeiture fund, nor any funds appropriated in this bill to be used to expand DEA's air activities in Guatemala.

I am not closing the door completely. If DEA and the administration can put together a program to interdict aerial traffickers in Guatemala that responds to the concerns that have been expressed regarding security, effectiveness, and duplication of effort, this committee will be open to considering it. But no such initiative is funded in this bill.

Mr. RUDMAN. Let me also offer the Senator from Kentucky my commitment that his reservations will be addressed before any funding is approved for this program.

Mr. MCCONNELL. I appreciate the chairman and ranking member taking the time to engage in this exchange. With their assurances, I am confident we will find and fund the most reasonable, well thought out, and successful counternarcotics programs for the region.

Mr. BIDEN. Mr. President, I rise today in strong support for this bill, in particular the provisions providing appropriations for the Federal effort against the epidemic of crime and violence. As every American knows, a rising tide of unprecedented violence continues to sweep our Nation. Murders, rapes, muggings, and criminal assaults each soared to the greatest—and most horrible—toll in America's history in 1990. And, the murderous violent crime toll grew even worse in 1991.

Combating this violence must be among our Nation's highest priorities. And, the bill before the Senate today, makes great strides in that direction. Let me be clear, the credit for this effort must go to the Appropriations Committee, in particular, Chairman BYRD, Subcommittee Chairman HOLLINGS and Senator RUDMAN.

Because of their efforts, the Senate has the chance to boost funding to the FBI by more than $145 million; to boost funding to the DEA by more than $35 million; to boost funding for organized crime drug enforcement task forces; to add 261 more assistant U.S. attorneys to the fight against violent crime; and to add $70 million to the President's request for prison construction funds. The Appropriations Committee has found the dollars to fully fund the President's request, and every Senator should vote in support of this effort.

I would also like to recognize Chairman HOLLINGS' efforts in a few key areas—crime fighting initiatives which will make a real difference on the front lines of the national fight against violent crime.

Chairman HOLLINGS and the Appropriations Committee have reversed what I believe is the single-most destructive decision called for by the President's crime budget—his proposal to slash more than $80 million from the Justice Department's effort to support State and local law enforcement.

As every Senator knows, I have long believed that the Federal Government must do much more for the Nation's State and local law enforcement officials—the police officers who do most of the fighting, and most of the dying, in the war against violent criminals. Because of Chairman HOLLINGS' efforts, the Senate—by passing this bill—has the chance to restore the more than $80 million cut by the President.

In another high-priority area—the Weed and Seed Program—Chairman HOLLINGS and the Appropriations Committee have boosted funding to $23 million. This will ensure the second-year funding for every weed and seed demonstration site—to $1.5 million—as well as allow more sites to join this program.

Earlier this year I introduced legislation to combat one of the most destructive areas of white collar crime—the scourge of health care fraud that is estimated to be robbing the American consumer of more than $70 billion every year.

This bill will boost the effort to combat health care fraud by about 30 percent—adding $13 million to the FBI effort to fight those who would rob America's health care system at a time when a lean, efficient system is a national imperative.

This bill will do all this and much more, Chairman BYRD, Subcommittee Chairman HOLLINGS, Senator RUDMAN, and every member of the Appropriations Committee have offered the Senate a strong, effective, efficient bill and I urge every Senator to support this bill.

(At the request of Mr. MITCHELL, the following colloquy was ordered to be printed in the RECORD:)

• Mr. SANFORD. Mr. President, I would like to engage the distinguished manager of the bill, Senator HOLLINGS, in a colloquy on the availability of funds for an estuarine resources center in the town of Washington in eastern North Carolina, and two other matters of importance to coastal North Carolina.

Mr. HOLLINGS. I would be happy to discuss these matters with the Senator from North Carolina.

Mr. SANFORD. In the eastern end of my State, the Pamlico-Tar River Foundation, a nonprofit group of over 2,000 members, and the town of Washington, NC, are seeking to establish the North Carolina Estuarine Resources Center. The major function of this center would be to educate the residents and visitors of northeastern North Carolina of the important concerns of watershed protection. The complex integrity of watersheds, wetlands, and estuarine systems are only now beginning to be understood, and it is imperative that new information is shared to provide insight into the vast resources in the Albemarle-Pamlico region. Decisions governing the management of these natural resources will carry significant implications, economic, ethical, and ecological, for each and every citizen in northeastern North Carolina. Therefore, public education on these issues is imperative, and a permanent educational facility located on the western side of the Albemarle-Pamlico Sounds is a necessary element.

The proposed center is designed as an estuarine education center for schoolchildren in the area as well as the many tourists to North Carolina. The center would also work with Federal and State agencies on environmental research projects such as coastal water quality and ecosystem management.

The people in Washington, NC, have already funded a feasibility study for the center, and they are eager to get this project on the ground. The town of Washington is expected to provide land for the facility. They are also working to fund the construction of the center using private sources and foundation support.

They do have one small request for Federal funding. They are seeking a one-time Federal appropriation of $40,000 to be used to pay for startup expenses for the center, to retain an employee to work with the town, local leaders, and State and Federal Government to construct the center, and to begin its operation.

I do hope we will be able to provide this small amount to the North Carolina Estuarine Resources Center. The community is committed to this project which will greatly enhance Federal efforts in environmental education, environmental research, and the protection of the Albemarle-Pamlico Estuary, a designated estuary of national significance under section 320 of the Clean Water Act.

I am aware from the Senate Commerce Appropriations Subcommittee report that an increase of $360,000 has been included for the National Coastal Resources Research and Development Institute [NCRI]. I am also aware that NCRI's mission includes efforts to encourage a stable and sustainable coastal economy, and the proposed estuarine center has a similar goal. By using education and research and bringing all in-

terested groups together, the center will play a strong role in sustainable development of land resources and in improving water quality in order to improve commercial fishing and other water-based economic enterprises. For these reasons, I think that NCRI would be the right group to provide the seed money necessary to make the proposed estuarine center a reality.

Given the importance of our estuarines, the need for environmental education, and the great opportunity that an estuarine resources center would provide for coastal North Carolina, I would like to know if the Senator from South Carolina would be willing to allow $40,000 of the increased funding for NCRI be used to help with the efforts for the estuarine center in Washington, NC.

Mr. HOLLINGS. I thank the Senator from North Carolina for his comments in support of the estuarine resources center. I am very impressed by this proposal, and, as we go to conference with the House, I will certainly support specifying $40,000 of NCRI's fiscal year 1993 funding toward this effort.

Mr. SANFORD. There are two other matters that I would like to discuss briefly. The first matter deals with Buxton Woods, a maritime forest on the Outer Banks of North Carolina. Several years ago, Federal funds were provided to help purchase Buxton Woods. Due to some unexpected difficulties, however, additional time is needed to complete the purchase of this land.

It is my understanding that the House Commerce Appropriations Subcommittee has included in its report language to allow the money that has already been appropriated for the Buxton Woods acquisition to remain available for an additional year so that this rare habitat might be preserved. The House has also included language to allow up to $50,000 of this money to be available for the development of a special area management plan for Buxton Woods. It is my hope that the Senate conferees will accept the House language on this matter.

Mr. HOLLINGS. I believe we can accept the House language with regard to Buxton Woods, and I will work toward that end during our conference committee negotiations.

Mr. SANFORD. There is one last matter I would like to bring before the Senator from South Carolina, and that is funding for the fisheries laboratory in Beaufort, NC. This lab conducts valuable research in fisheries and coastal habitat protection. The House has included $182,000 to be used to upgrade and maintain the Beaufort facility, and to improve the laboratory's operational and scientific ability. I would ask that the Senate conferees do what they can to agree with the House's funding level.

Mr. HOLLINGS. As I and the other Senate conferees move to conference, I will certainly give careful consideration to accepting the House's funding level for the Beaufort Laboratory.

Mr. SANFORD. I thank the Senator from South Carolina for his time and for his consideration of these matters.●

ST. XAVIER UNIVERSITY'S INTERNATIONAL BUSINESS DEVELOPMENT CENTER

Mr. DIXON. Mr. President, I rise today in support of an exciting proposal from Chicago's St. Xavier University.

St. Xavier proposes to bring residents of the newly free Eastern European nations to the United States, and provide these individuals with hands-on experience in the workings of American small business procedures.

St. Xavier has already had proven results in Western Europe, where it has programs in France and Italy. Now, with Eastern Europe finally opening its borders to the west, St. Xavier promises to bring its resources to the nations that truly need American business knowledge—the nations of the former Soviet bloc.

Most of Chicago's businesses are of a relatively small size. As Eastern Europe attempts to move itself toward a free-market system, it needs guidance from the West. St. Xavier will provide Eastern European managers with a firsthand look at the operations of Chicago's small business industry.

Europe's new democracies will benefit from this innovative plan by gaining valuable experience within the United States. In addition, American businesses will gain valuable contacts within nations that just recently kept their borders closed to western innovations.

I urge my dear friend and colleague to support the St. Xavier proposal, and recommend that the U.S. Small Business Administration provide available funds for this program.

Mr. HOLLINGS. I understand the concern of the Senator from Illinois about this program. I would note that the committee has recommended against including any earmark appropriations for any university project. But, the Senator from Illinois makes some good points, and I request the Small Business Administration to review this project.

Mr. DIXON. I thank my colleague from South Carolina.

ECONOMIC CONVERSION INITIATIVE

Mr. WELLSTONE. Mr. President, I rise to express my support for the economic conversion initiative contained in the Committee on Appropriations report of S. 3026. I commend the committee and its chairman for supporting allocation of defense funds for critical economic conversion and adjustment programs. The Department of Defense not only has a moral responsibility to the members of the Armed Forces whose careers will be cut short, but also to the workers, defense contractors, and communities that have played a vital role in our defense effort for almost 50 years. To require them to fend for themselves during a time of recession would be the height of irresponsibility.

Both in its funding approach and in the conversion-related programs it supports, the committee initiative is fully consistent with the amendment to the budget resolution that I proposed and the Senate passed on April 10. My amendment stipulated that no less than $1 billion in budget authority provided for defense function 050 should be made available for defense conversion-related activities. It also called for funding the conversion and adjustment programs of the National Institute of Standards and Technology [NIST], the Economic Development Administration, and the Small Business Administration. The committee's astute decision to support these programs not only will facilitate economic conversion, but also help restore American competitiveness, revive our manufacturing base, and spur economic growth.

Mr. President, the bulk of the NIST funding in this bill, $100 million, is to be used for NIST external research grant programs intended to promote technological innovation and facilitate the conversion of U.S. industry to nondefense manufacturing. The NIST programs are designed to speed the commercialization of new technologies and ensure that American firms gain the benefits of American inventions, to aid small- and medium-sized manufacturers to modernize, increase productivity, and retain jobs, and to help State governments improve the effectiveness of vital technology and manufacturing extension programs. I commend the committee both for supporting these programs which will play a pivotal role in our economic recovery and for urging that priority for grants be given to defense firms proposing projects that show a potential to assist the defense industry in converting to nonmilitary production. Sustained congressional support of programs such as those of NIST are essential if America is to recapture and retain its technological edge in key nondefense sectors.

I particularly welcome the strong backing the committee has given to EDA efforts to assist defense-distressed communities. As we all know, EDA resources are used to improve economic opportunities in needy communities, and they include funding for basic planning, infrastructure development, and credit enhancement. Unfortunately, this administration, like the Reagan administration before it, has tried to kill EDA. EDA has not been included in a Presidential budget request since fiscal year 1981 and has been kept alive by congressional appropriations. Moreover, as the committee report notes, the $50 million provided EDA under the fiscal year 1991 DOD Appropriations Act, was held up for over a

year. So far, only $100,000 of these funds has reached communities in need.

Despite chronic funding shortfalls, EDA remains the only Federal agency capable of providing communities with economic devastation assistance. In providing vitally needed backing for EDA, the committee has given new hope to defense-dependent American communities ravaged by recession and facing an insecure and uncertain future.

CENTER FOR INTER-AMERICAN FREE TRADE

Mr. DECONCINI. Would the distinguished chairman yield to this Senator for a question?

Mr. HOLLINGS. I would be pleased to yield to my friend from Arizona.

Mr. DECONCINI. I thank my friend. As the Senator knows, there is language in the report accompanying his bill which discusses the national law Center for Inter-American Free Trade [CIFT]. Is the chairman aware that the CIFT is a not-for-profit organization, located in Tucson, AZ, which has recently been established to facilitate the exchange of information, research materials, and experts on treaties, conventions, legislation, and case law pertaining to legal institutions involved in the exchange of goods and services among Canada, Mexico, and the United States?

Mr. HOLLINGS. I have been made aware of the existence of the CIFT, and of its accomplishments to date, by the distinguished senior Senator from Arizona.

Mr. DECONCINI. I thank the distinguished chairman for his remarks. If my friend would yield further, would he agree that it is important—for the furtherance of trade and commerce between and among nations—that information about national laws and regulations be exchanged?

Mr. HOLLINGS. I would agree that any information exchanges which assist in enhancing the understanding of these regulations can be beneficial.

Mr. DECONCINI. Would the distinguished chairman also agree that, if the State Department views the work of the CIFT worthy of allocating funding to assist in providing these services to U.S. businesses and institutions engaged in North American trade, the Department should encourage the CIFT to provide matching funds up to a level of $400,000?

Mr. HOLLINGS. I would say to my friend from Arizona that I would encourage the State Department to support matching funds for services of this type at an appropriate level.

Mr. DECONCINI. I thank my friend, the distinguished manager of the bill, and I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. HOLLINGS. Mr. President, I ask unanimous consent that when the Senate resumes consideration of S. 3026, the Commerce, State, and Justice appropriations bill at 10 a.m. tomorrow, that the only amendments to be in order to the bill be three amendments by Senator GRAHAM freezing the overhead expenses for the Department of Commerce, Justice, and State; that Senator GRAHAM be recognized to offer these three amendments en bloc at that time; that there be 1 hour for debate on the amendments equally divided in the usual form; that at the conclusion or yielding back of the time, the Senate proceed to vote in seriatim on each of Senator GRAHAM's amendments with no further intervening action or debate; and, upon the disposition of Senator GRAHAM's amendments, the Senate proceed to the third reading of the bill, and that the preceding all occur without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that once S. 3026 has been read a third time, the bill be returned to the calendar; that upon receipt from the House of Representatives of the companion measure, the text of S. 3026 as of third reading be incorporated into the House bill, H.R. 5678, as Senate-passed amendments; that the House bill, as amended, be deemed read a third time and passed, and that the motion to reconsider be laid upon the table; provided, further, that the Senate insist on its amendments, and request a conference with the House; and that the Chair be authorized to appoint conferees; that all of the above actions occur without intervening action or debate; and, that S. 3026 then be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreements follow:

Ordered, That at 10:00 a.m. on Tuesday, July 28, 1992, the Senate resume consideration of S. 3026, the State/Justice/Commerce Appropriation Bill, and that the only amendments remaining in order to the bill be three Graham amendments, freezing the overhead expenses for the Departments of Commerce, Justice, and State.

Ordered further, That the Senator from Florida (Mr. Graham) be recognized to offer these three amendments en bloc at that time and that there be 1 hour debate, to be equally divided and controlled in the usual form.

Ordered further, That upon the conclusion or yielding back of time, the Senate proceed to vote ad seriatim on each of the Graham amendments, with no intervening action or debate.

Ordered further, That upon the disposition of Senator Graham's amendments, the Senate proceed to third reading of the bill and that the preceding all occur without any intervening action or debate.

Ordered further, That once S. 3026 has been read a third time, the bill be returned to the Calendar, that upon receipt from the House of Representatives of the companion measure, the text of S. 3026 as of third reading be incorporated into the House bill, H.R. 5678, as Senate passed amendments.

Ordered further, That the House bill, as amended, be deemed read a third time and passed and the motion to reconsider laid upon the table.

Ordered further, That the Senate insist on its amendments, request a conference with the House, and that the Chair be authorized to appoint conferees.

Ordered further, That all of the above actions occur without intervening action or debate and S. 3026 then be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, let me thank our distinguished majority leader, and the minority leader, particularly my colleague, the Senator from New Hampshire, and the staff for all their work, and particularly our Commerce Committee staff who worked all over the weekend on unsnarling that SEC provision.

I think we have done a good day's work here and we should be completed under the unanimous-consent agreement on the bill here on the Senate side by midday tomorrow.

So let me thank the majority leader for his leadership and cooperation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPROVED ENERGY EFFICIENCY CLOTURE MOTION

Mr. MITCHELL. Mr. President, I move to proceed to the consideration of H.R. 776, an act to provide for improved energy efficiency, and I send a cloture motion on the motion to proceed to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the cloture motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the

Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of H.R. 776, an act to provide for improved energy efficiency:

J. Bennett Johnston, David L. Boren, Alan Cranston, Fritz Hollings, Bob Kerrey, Robert Byrd, Howell Heflin, John Breaux, George Mitchell, Howard M. Metzenbaum, J. Lieberman, Joe Biden, Frank R. Lautenberg, Jim Sasser, Slade Gorton, Warren B. Rudman, Phil Gramm, Connie Mack, Jake Garn, Frank H. Murkowski.

Mr. MITCHELL. Mr. President, I withdraw the motion to proceed to the energy bill, and I ask unanimous consent that the vote on the motion to invoke cloture on the motion to proceed to H.R. 776 occur at 2:15 p.m. on Tuesday, July 28, and that notwithstanding the invoking of cloture on the motion, the Senate remain on the Agriculture appropriations bill until it has been disposed of.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening.

I thank my colleagues for their cooperation. I especially thank the managers for their diligence in handling the pending bill.

To summarize, for the benefit of Senators and their schedules, we will complete action on the pending State, Commerce, and Justice appropriations bill tomorrow. There will be a final series of amendments offered at 10 a.m. Votes on one or more of those amendments will occur at 11 a.m.

Following that, the Senate will, by previous agreement, proceed to the Agriculture appropriations bill at 2:15, following party caucuses.

We will vote on the cloture motion on the motion to proceed to the energy bill. If we have not by then completed action on the energy bill or the Agriculture appropriations bill, notwithstanding the result of the cloture vote, we will continue to remain on the Agriculture appropriations bill until it has been completed.

Then, if cloture has been invoked on energy, we will take up that bill following disposition of the Agriculture appropriations bill.

I thank my colleagues for their cooperation, and I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislation clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESALINIZATION RESEARCH AND DEVELOPMENT ACT

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 519, S. 2902, authorizing research into the desalinization of water; that the bill be deemed read a third time, passed; that the motion to reconsider be laid upon the table and that any statements relative to passage of this item appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2902) was deemed read a third time, and passed, as follows:

S. 2902

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Desalinization Research and Development Act of 1992".

SEC. 2. DECLARATION OF POLICY.

In view of the increasing shortage of usable surface and ground water in many parts of the United States and the world, it is the policy of the United States to perform research to develop low-cost alternatives in the desalinization and reuse of saline or biologically impaired water to provide water of a quality suitable for environmental enhancement, agricultural, industrial, municipal, and other beneficial consumptive or nonconsumptive uses, and to provide, through cooperative activities with local sponsors, desalinization and water reuse processes or facilities which provide proof-of-concept demonstrations of advanced technologies for the purpose of developing and conserving the water resources of this Nation and the world.

SEC. 3 DEFINITIONS.

As used in this Act—

(1) the term "desalinization" means the use of any process or technique for the removal and, when feasible, adaptation to beneficial use, of organic and inorganic elements and compounds from saline or biologically impaired waters, by itself or in conjunction with other processes;

(2) the term "saline water" means sea water, brackish water and other mineralized or chemically impaired water;

(3) the term "United States" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

(4) the term "usable water" means water of a high quality suitable for environmental enhancement, agricultural, industrial, municipal, and other beneficial consumptive or nonconsumptive use; and

(5) the term "sponsor" means any local, State, or interstate agency responsible for the sale and delivery of "usable" water that has the legal and financial authority and capability to provide the financial and real property requirements needed for a desalinization facility.

SEC. 4. RESPONSIBILITY FOR THE PROGRAM.

(a) The Secretary of the Interior shall have primary program management and oversight for conduct of the research and development and the Desalinization Development Program and shall coordinate these activities with the Secretary of the Army.

(b) The Secretary of the Interior shall jointly execute the Desalinization Development Program with the Secretary of the Army.

SEC. 5. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—In order to gain basic knowledge concerning the most efficient means by which usable water can be produced from saline water, the Secretary of the Interior and the Secretary of the Army shall conduct a basic research and development program as established by this Act.

(b) For the basic research and development program the Secretary of the Interior and the Secretary of the Army shall—

(1) conduct, encourage, and promote fundamental scientific research and basic studies to develop the best and most economical processes and methods for converting saline water into "usable" water through research grants and contracts—

(A) to conduct research and technical development work,

(B) to make studies in order to ascertain the optimum mix of investment and operating costs,

(C) to determine the best designs for different conditions of operation, and

(D) to investigate increasing the economic efficiency of desalinization processes by using them as dual-purpose "co-facilities" with other processes involving the use of water;

(2) engage by competitive or noncompetitive contract or any other means, necessary personnel, industrial or engineering firms, Federal laboratories and other facilities, and educational institutions suitable to conduct research or other work;

(3) study methods for the recovery of byproducts resulting from the desalinization of water to offset the costs of treatment and to reduce the environmental impact from those byproducts; and

(4) prepare a management plan for conduct of the "Research and Development Program".

SEC 6. DESALINIZATION DEVELOPMENT PROGRAM.

(a) The Secretary of the Interior will have program responsibility.

(b) The Secretary of the Army and the Secretary of the Interior both shall have authority to design and construct facilities under the provision of the Desalinization Development Program.

(c) SELECTION OF DESALINIZATION DEVELOPMENT FACILITIES.—Candidate facilities must be submitted by the sponsor directly to the Secretary of the Army or the Secretary of the Interior. Sponsors will submit their application for the design and construction of a facility and certification that they can provide the required cost sharing. Facilities will be selected subject to availability of Federal funds.

(d) COST SHARING.—

(1) The "initial cost" of a facility shall include—

(A) design cost,

(B) construction cost,

(C) lands, easements, and rights-of-way costs, and

(D) relocation costs.

(2) GENERAL RULE.—The sponsor for a facility under the Desalinization Development Program shall—

(A) pay, during construction, 5 percent of the "initial cost" of the facility, and

(B) provide all lands, easements, and rights-of-way and perform all related necessary relocations.

(3) 25-PERCENT MINIMUM CONTRIBUTION.—If the value of the contributions required under paragraph (2) of this subsection is less than 25 percent of the "initial cost" of the facil-

ity, the sponsor shall pay during construction of the facility such additional amounts as are necessary so that the total contribution of the sponsor is equal to 25 percent of the "initial cost" of the facility.

(4) 50-PERCENT MAXIMUM.—The sponsor share under paragraph (2) shall not exceed 50 percent of the "initial cost" of the facility.

(e) the "initial cost" of a facility may not exceed $10,000,000.

(f) Operation, maintenance, repair, and rehabilitation of facilities shall be the responsibility of the sponsor.

(g) REVENUE.—All revenue generated from the sale of "usable water" from the facilities shall be retained by the sponsors.

SEC. 7. PARTICIPATION BY INTERESTED AGENCIES AND OTHER PERSONS.

(a) COORDINATION WITH OTHER AGENCIES.—

(1) Research and development activities undertaken by the Secretary of the Interior under this Act shall be coordinated or conducted jointly, as appropriate, with—

(A) The Department of Commerce, specifically with respect to marketing and international competition,

(B) as appropriate—

(i) the Department of Defense, Agriculture, State, Health and Human Resources, and Energy,

(ii) the Environmental Protection Agency,

(iii) the Agency for International Development, and

(iv) other concerned Government and private entities.

(2) Other interested agencies may furnish appropriate resources to the Secretary of the Interior to further the activities in which they are interested.

(b) AVAILABILITY OF RESEARCH.—All research sponsored or funded under authority of this Act shall be provided in such manner that information, products, processes, and other developments resulting from Federal expenditures or authorities will (with exceptions necessary for national defense and the protection of patent rights) be available to the general public consistent with this Act.

(c) PATENTS AND INVENTIONS.—

(1) Subject to paragraph (2), section 9 (a) through (k) and (m) of the Federal Nonnuclear Energy, Research and Development Act of 1974 (43 U.S.C. 5908 (a) through (k) and (n)) shall apply to any invention made or conceived in the course of or under any contract of the Secretary of the Interior pursuant to this Act, except that for the purposes of this Act, the words "Administrator" and "Administration" in that section shall be deemed to refer to the Secretary and Department of the Interior, respectively.

(2) Paragraph (1) shall not be construed to affect the application of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) to research under this Act that is performed at a Federal laboratory.

(d) RELATIONSHIP TO ANTITRUST LAWS.—Section 10 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5909) shall apply to the activities of individuals, corporations, and other business organizations in connection with grants and contracts made by the Secretary of the Interior pursuant to this Act.

SEC. 8. TECHNICAL AND ADMINISTRATIVE ASSISTANCE.

The Secretary of the Interior is authorized to accept technical and administrative assistance from a State, public or private agency in connection with research and development activities relating to desalinization of water and may enter into contracts or agreements stating the purpose for which the assistance is contributed and, in appropriate circumstances, providing for the sharing of costs between the Secretary of the Interior and such agency.

SEC. 9. MISCELLANEOUS AUTHORITIES.

In carrying out this Act, the Secretary of the Interior or the Secretary of the Army, as appropriate, may—

(1) make grants to educational and scientific institutions;

(2) contract with educational and scientific institutions and engineering and industrial firms;

(3) engage, by competition or noncompetitive contract or any other means, necessary personnel, industrial and engineering firms and educational institutions;

(4) use the facilities and personnel of Federal, State, municipal, and private scientific laboratories;

(5) contract for or establish and operate facilities and tests to conduct research, testing, and development necessary for the purposes of this Act;

(6) acquire processes, data, inventions, patent applications, patents, licenses, lands, interests in lands and water, facilities, and other property by purchase, license, lease, or donation;

(7) assemble and maintain domestic and foreign scientific literature and issue pertinent bibliographical data;

(8) conduct inspections and evaluations of domestic and foreign facilities and cooperate and participate in their development;

(9) conduct and participate in regional, national, and international conferences relating to the desalinization of water;

(10) coordinate, correlate, and publish information which will advance the development of the desalinization of water; and

(11) cooperate with Federal, State, and municipal departments, agencies and instrumentalities, and with private persons, firms, educational institutions, and other organizations, including foreign governments, departments, agencies, companies, and instrumentalities, in effectuating the purposes of this Act.

SEC. 10. DESALINIZATION CONFERENCE.

(a) ESTABLISHMENT.—The President shall instruct the Agency for International Development to sponsor an international desalinization conference within twelve months following the date of the enactment of this Act. Participants in such conference should include scientists, private industry experts, desalinization experts and operators, government officials from the nations that use and conduct research on desalinization, and those from nations that could benefit from low-cost desalinization technology, particularly in the developing world, and international financial institutions.

(b) PURPOSE.—The conference established in subsection (a) shall explore promising new technologies and methods to make affordable desalinization a reality in the near term, and shall further propose a research agenda and a plan of action to guide longer-term development of practical desalinization applications.

(c) FUNDING.—Funding for the international desalinization conference may come from operating or program funds of the Agency for International Development, and the Agency for International Development shall encourage financial and other support from other nations, including those that have desalinization technology and those that might benefit from it.

SEC. 11. REPORTS.

Prior to the expiration of the twelve-month period following the date of enactment of this Act, and each twelve-month period thereafter, the Secretary of the Interior, in consultation with the Secretary of the Army, shall prepare a report to the President and Congress concerning the administration of this Act. Such report shall include the actions taken by the Secretary of the Interior and the Secretary of the Army during the calendar year preceding the calendar year in which such report is filed, and shall include actions planned for the next following calendar year.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) There is authorized to be appropriated $5,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, and for each of the fiscal years 1995, 1996, and 1997, such sums as may be necessary for the purposes of carrying out section 5 of this Act.

(b) There is authorized to be appropriated $50,000,000 over a five-year period for the purposes of section 6 of this Act. Any of the funds appropriated will be made available equally to the Department of the Interior or the Army Corps of Engineers civil works program.

DISCLOSURE OF RECORDS ON THE ASSASSINATION OF PRESIDENT JOHN F. KENNEDY

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar 552, S. 3006, a bill to provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3006) to provide for the expeditious disclosure of records relative to the assassination of President John F. Kennedy.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. Are there amendments to the bill?

AMENDMENT NO. 2764

Mr. HOLLINGS. Mr. President, I send a technical amendment on behalf of Mr. GLENN to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] (for Mr. GLENN) proposes an amendment numbered 2764.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, strike lines 9 through 14 and insert the following:

(G) give priority to—

(i) the identification, review, and transmission of all assassination records publicly available or disclosed as of the date of enactment of this Act in a redacted or edited form; and

(ii) the identification, review, and transmission, under the standards for postpone-

ment set forth in this Act, of assassination records that on the date of enactment of this Act are the subject of litigation under section 552 of title 5, United States Code; and

On age 15, line 7, after "make" insert "immediately".

On page 15, lines 8 and 9, strike "not later than 300 days after the date of enactment of this Act".

On page 17, line 3, after "operations," insert "law enforcement,".

On page 22, line 15, strike "after receiving the report from" and insert "after reported by".

On page 25, line 7, strike "create" and insert "complete".

On page 26, line 1, after "(iii)" insert "request the Attorney General to".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2764) was agreed to.

Mr. GLENN. Mr. President, as the Senate considers passage of S. 3006, the President John F. Kennedy Assassination Records Collection Act, I wish to express my appreciation to Senator DAVID BOREN and Senator ARLEN SPECTER who introduced the initial legislation in the Senate earlier this year. Senators BOREN and SPECTER deserve enormous credit for their commitment to requiring the public disclosure of the records related to the assassination of President John F. Kennedy. They have both been extremely helpful throughout the consideration of the legislation by the Committee on Governmental Affairs. Similarly, I would like to personally acknowledge the significant role of my colleague from the House of Representatives, Congressman LOUIS STOKES. Congressman STOKES seized the initiative to require the release of the records and has taken a special interest in ensuring that the American public is given prompt and wide-ranging access to the information about the assassination.

I must acknowledge the full support and approval of all the members of the Committee on Governmental Affairs for the legislation. In addition, several specific members who came forward in support of this legislation deserve recognition. These include Senator BOREN, Senator SPECTER, Senator MITCHELL, Senator METZENBAUM, Senator LEVIN, Senator PRYOR, Senator LIEBERMAN, Senator AKAKA, Senator STEVENS, Senator COHEN, Senator DECONCINI, Senator WOFFORD, Senator MURKOWSKI, Senator GRASSLEY, and Senator LEAHY.

BACKGROUND AND NEED FOR THE LEGISLATION

On November 22, 1963, President John F. Kennedy was assassinated. It was a tragic and defining moment in American history. The desire by the American public to understand who assassinated President Kennedy, and why, has resulted in several official investigations and a broad spectrum of private inquiries and scholarship. Unfortunately, in the eyes of the public, each investigation and inquiry served to raise additional questions, and did so while increasing the volume of secret Government records about the assassination. In 1992, the public demand, fostered by increased media attention, the opening of secret files by changing governments around the world, and other factors, culminated in the recognition by the Congress and the executive branch that the records related to the assassination of President Kennedy should be fully disclosed.

In addition to the legislation considered by the committee, and its counterpart considered by the House Committee on Government Operations, four other related, though more limited, measures were introduced in the House of Representatives in 1992. Two bills mandating the release of all Kennedy assassination investigation records were H.R. 4090, introduced January 3, 1992, and H.R. 4108, introduced January 24, 1992. Two House resolutions directing the unsealing of the records of the Select Committee on Assassinations were House Resolution 325, introduced January 22, 1992, and House Resolution 326, introduced on January 24, 1992.

I share the belief in the importance of disclosing the records. I believe that all Government records related to the assassination of President Kennedy should be preserved for historical and governmental purposes; that all such records should carry a presumption of immediate disclosure; and, that all such records should be eventually disclosed to enable the public to become fully informed about the history surrounding the assassination.

The Committee on Governmental Affairs also closely examined the issue of whether legislation was necessary and concluded that it was. While disclosure of the records could be achieved through a nonstatutory approach—by each House of the Congress passing a resolution pertaining to its records, and the President issuing an Executive order to the same effect—a statute is necessary to ensure an independent and enforceable mechanism for disclosure under uniform standards for review.

In addition, the committee found that legislation is necessary because congressional records related to the assassination would not otherwise be subject to public disclosure until at least the year 2029—with uncertain disclosure of related classified executive branch records; because the Freedom of Information Act, as implemented by the executive branch, has impeded the timely public disclosure of the assassination records; because Executive Order 12356, National Security Information, has eliminated the government-wide schedules for declassification and downgrading of classified information and has prevented the timely public disclosure of assassination records; and because most of the records related to the assassination of President Kennedy are at least 30 years old, and only in the rarest cases is there any legitimate need for continued protection of such records.

The release of records and materials in the possession of the Federal Government pursuant to the legislation will significantly expedite public access to this information. Although certain records related to the assassination of President Kennedy have been made available over time to the public, the legislation will create opportunities for the public to review records which might otherwise not be possible for several decades. Importantly, the public will be enabled to make their own observations and judgments based on firsthand access to previously undisclosed records. S. 3006 creates a process to publicly disclose all records related to the assassination of President John F. Kennedy. The underlying principles guiding the legislation are independence, public confidence, efficiency and cost effectiveness, speed of records disclosure, and enforceability. In order to achieve these objectives, the act creates a presumption of disclosure upon the Government, and it establishes an expeditious process for the review and disclosure of the records. The act creates numerous requirements to ensure that the public will be enabled to make its own observations, judgments, and determinations with regard to the history of the assassination and related matters. In order to provide for the most comprehensive disclosure of records related to the assassination of President Kennedy, the act empowers an independent review board with the authority to request any additional information or records from relevant Government agencies and congressional committees. Finally, the determinations of the review board are reviewable and enforceable in a court of law.

These purposes and objectives were carefully addressed during the development of the new legislation. The President John F. Kennedy Assassination Records Collection Act—the act—reflects the many recommendations and ideas developed from the hearings, meetings with affected Government agencies, and views expressed by members of the public experienced in efforts to access records from relevant agencies in general, and with particular emphasis upon the assassination of President Kennedy. The bill also reflects the considerable research and expertise of the committee staff with regard to the law and policy of public access to Government information.

PURPOSE AND SUMMARY OF THE LEGISLATION

The legislation establishes the President John F. Kennedy Assassination Records Collection at the National Archives. The collection will be made known and accessible to the public by the creation of a subject guidebook and index to the records created by the National Archives. The collection will include all public assassination records

at the National Archives at the time of enactment; for example, public records of the Warren Commission; all assassination records released by Government offices pursuant to this act; all postponed records as part of the protected collection; and all postponed records as they become publicly disclosed in the future. The public will also be able to request reproduction of records from originating Government agencies.

Government offices holding assassination records are required to begin organizing and reviewing such records upon enactment and have this work completed within 10 months of enactment. During this time, the Government offices will determine whether records qualify as assassination records and then whether they recommend to the review board that public disclosure of certain records be postponed for reasons of national security, confidentiality, and privacy, as established in the act. All assassination records which are not recommended for postponement must be made immediately available to the public through the Government office and by transmission to the National Archives. Records recommended for postponement are required to be reviewed by an independent assassination records review board, which makes determinations for release or postponement.

In the case of executive branch records and information, the President has the authority to override the review board's determinations with regard to release or postponement. For congressional records, in the event that the Congress disagrees with a determination by the review board, each House would be required to adopt a resolution to change or create a rule governing the disposition of its records at issue. Such rulemaking authority is preserved by the act. Finally, all postponed records undergo periodic review and must be disclosed in full no later than 25 years after the date of enactment unless, in the case of executive branch records, the President demonstrates that pubic disclosure will result in an identifiable harm to the national security, intelligence operations, or foreign relations of the United States.

The assassination records review board is an independent agency within the executive branch. The five-member review board will be appointed by the President with the advice and consent of the U.S. Senate. The confirmation hearings will be conducted by the Committee on Governmental Affairs. The act requires that the review board include at least one historian and one attorney, and that each member is a nationally recognized professional in his or her field. The legislation requires that prior to making the appointments, the President is required to consider recommendations from the American Historical Association, the Organization of American Historians, the Society of American Archivists, and the American Bar Association.

To ensure a comprehensive search and disclosure of assassination records, particularly to enable the public to obtain information and records beyond the scope of previous official inquiries, the review board has the authority to direct any Government office to produce additional information and records which it believes are related to the assassination. It has the authority to subpoena private persons and to enforce the subpoenas through the courts.

The review board is authorized for a 2-year period and it may be extended by a majority of the review board for up to an additional year. The review board could decided to extend its existence to less than 1 year if that is the time determined as necessary to complete its work. Annual financial reports and other periodic reports are required to be provided to the Congress. The reports must include statements of progress, the level of cooperation of Government offices and agencies, and the possible need for additional time or authority from Congress.

Last, I wish to correct part of the language of the committee's report with regard to the autopsy records of President Kennedy. Certain words were mistakenly omitted from the last sentence on page 21 continuing on page 22. The sentence should read: "The Committee believes that there is a compelling justification for protecting the privacy of the Kennedy family from the unwarranted intrusion that would be raised by public disclosure of the records conveyed by the deed."

Mr. PRYOR. Mr. President, as a member of the Senate Governmental Affairs Committee which developed and approved S. 3006, the President John F. Kennedy Assassination Records Collection Act, I wish to assure the American public that this act will result in the widest and broadest possible disclosure of records related to the tragic assassination of President John F. Kennedy.

The American public wants to understand the history surrounding the assassination of President Kennedy, and I hope that this act will help answer many questions and possibly quell the spiraling speculation about the subject. As set forth in the act all records as related to the assassination of President Kennedy should be preserved for historical and governmental purposes; all such records should carry a presumption of immediate disclosure; and, all such records should be eventually disclosed to enable the public to become fully informed about the history surrounding the assassination.

The legislation takes important steps to establish a process of records review which will maintain, perhaps for the first time, the public confidence in such a process related to the Kennedy assassination records. An independent review board will make final determinations, and their conclusions will be reviewable and enforceable in a court of law.

To ensure a comprehensive search and disclosure of assassination records, particularly to enable the public to obtain information and records beyond the scope of previous official inquiries, the Review Board has the authority to direct any Government office to produce additional information and records which it believes are related to the assassination. It has the authority to request that the Attorney General subpoena private persons and to enforce the subpoenas through the courts.

DONATED RECORDS AND THE COST OF RECORDS REPRODUCTION

Finally, I wish to discuss two issues which have become controversial in the consideration of similar legislation before the House of Representatives. The first is whether records which have been donated to the Government through deeds of gift or donation should be treated as assassination records. The second is the cost that the public will be charged when it seeks to obtain copies of certain of the assassination records once they are released. In each case, the Archivist of the United States, Dr. Don Wilson, has unfortunately chosen to advocate and lobby the Congress to narrow public access to the assassination records. To the subsequent chagrin of certain Members of the House of Representatives who the Archivist persuaded to sponsor his provisions before the House Judiciary Committee, they have now learned that such proposals will hinder public access to the Kennedy assassination records. The Archivist's actions will have this effect because he wants all records which have been donated or gifted to the Government to be exempt from the definition of "assassination records"; and, he does not want the National Archives to be subject to the Freedom of Information Act fee waiver provisions for the Kennedy assassination records or any other records. As a result, important segments of the records related to the assassination of President Kennedy will not be covered by the new law, and the National Archives will make it too expensive for the public to obtain copies of the records.

With regard to the issue of deeds of gifts and donations, it is important to explain how records of past Presidents would be subject to such controls. Prior to the enactment of the Presidential Records Act, which first took effect during the Reagan administration, Presidential records were the personal property of each President. In recent decades, when any such records were returned to the Government, it

was the custom to do so through a deed of gift or donation, and in some cases such deeds contained terms restricting access, or making such access consistent with official access requirements such as an Executive order on classified information. Such is the case for the papers, for example, of both President Johnson and President Ford. I mention these two examples because they illustrate how significant segments of official records possibly related to the assassination of President Kennedy would be excluded from public access under the new law. Indeed, we are talking about nothing less than the complete record collection of the Rockefeller Commission, created by President Ford which examined, in part, any possible ties between the CIA and the assassination of President Kennedy, as well as countless records donated by President Johnson, including literally thousands of personal tape-recorded telephone conversations of President Johnson.

The key issue is that of preserving the terms of deeds of donations and gifts, without preventing the official review and possible public disclosure of any records under the standards for review and other requirements of S. 3006. Unlike the action by Congress taken in the aftermath of Watergate to override the restrictions which President Nixon sought to place on his records and tapes, Congress has no such intent with records related to the assassination of President Kennedy. S. 3006 carefully balances these needs with provisions which do not override the terms of deeds, but which requires that the records, where appropriate, are treated as assassination records under the act. It is hoped that this approach will continue to be applied, and that the public will not be denied access to such important components of the Kennedy assassination files as sought by the Archivist.

Second, is the issue of the cost of records reproduction to the public, and the Archivist's insistence that the National Archives does not have to apply the fee schedule of fee waiver provisions of the Freedom of Information Act. Again, unfortunately, the Archivist is taking a position which directly undercuts the public's rights and means of access to the Kennedy files.

In developing the legislation, our committee carefully considered the cost of reproduction of the assassination records charged to the public and the application of the Freedom of Information Act fee waiver requirements to the National Archives and other Government offices which possess assassination records. Just as the definition of the term "assassination records" is the threshold test for public confidence in the scope of disclosure resulting from the act, public access itself is the single most important purpose of the act.

For example, it has been the experience of certain researchers including the Assassination Archives and Records Center, that it is more expensive to obtain copies of records related to the assassination of President Kennedy from the National Archives than from the originating agencies such as the Central Intelligence Agency [CIA] and the Federal Bureau of Investigation [FBI]. The committee specifically sought to determine the cost of reproduction of records which are on the shelf and for which no search is required.

The committee confirmed that it is more expensive for the public to obtain on-the-shelf records at the National Archives than at originating agencies. This is the result of two factors: Pricing policy and application of the fee waiver provisions of the Freedom of Information Act [FOIA]. The National Archives charges the public a higher price for reproduction and does not honor the fee waiver provisions of the FOIA in the belief that it is exempt from such provisions.

The committee investigated the fees at the agencies where the greatest public demand for Kennedy assassination records have been—the CIA and the FBI, and compared it to the National Archives. The committee found the pricing policy of the CIA and the FBI are identical. Where no search is required, the first 100 pages are free, and additional copies cost 10 cents per page—regardless of whether the public takes delivery in person at the agency or by mail. In comparison, the National Archives charges the public 10 cents per page for copies of records which are requested in person, and 25 cents per page for copies of records requiring mailing. The result has been that the National Archives has created an unnecessary and unreasonable burden on the public to shop around Government for the least expensive means of obtaining copies of records. As a result of these findings, and the National Archives determination to continue to charge more for records reproduction than agencies who comply with the Freedom of Information Act fee schedule requirements and guidelines, the act provides in section 5(h) that the public may also seek copies of assassination records from the originating agencies.

The committee next determined that it is less expensive for the public to obtain copies of records at originating agencies than at the National Archives because the agencies are faithful to the fee waiver provisions of the FOIA, whereas the National Archives is not. Again, the committee was especially concerned with the history of access to on the shelf records related to the assassination of President Kennedy. The Committee examined the National Archives claim that it is exempt from such provisions of the FOIA, the influence that this interpretation has had on the cost of records to the public, and the impact of such a policy on uniform and reasonable access and public disclosure costs under this Act.

Application of the FOIA fee waiver provisions are particularly essential with regard to the records related to the assassination of President John F. Kennedy. First, the National Archives is covered by the Freedom of Information Act, there is no exception to this requirement in law, and to create such an exception would undermine the application of the Nation's foremost means of public access and government accountability at the nation's foremost repository of government records. Second, without applying the FOIA fee waiver provision to the Kennedy assassination records the National Archives would be acting in a manner which undermines that law. Simply put, the public would lose its rights under the Freedom of Information Act as soon as any record record is transferred to the National Archives. Third, as with its pricing policy, its policy with regard to the FOIA fee waiver would create an unnecessary and unreasonable burden upon the public by requiring that it shop around the government for the least expensive means of records reproduction.

It is necessary to require the application of the FOIA fee waiver provisions to public requests for records contained in the President John F. Kennedy Assassination Records Collection because to do otherwise would seriously conflict with the purposes and intent of public access and disclosure under the Act. While the Congress cannot specify the exact cost of record reproduction under the Act, it is clearly intended that the costs be reasonable and that the FOIA fee waiver provisions apply at all executive agencies including the National Archives.

No one should obstruct access to the Kennedy assassination records, least of all the Archivist of the United States.

Mr. BOREN. Mr. President, I urge all of my colleagues to join in supporting passage of S. 3006, a bill calling for release of all Government records related to the assassination of President John F. Kennedy.

On March 26, 1992, Senator SPECTER and I introduced Senate Joint Resolution 282, a bill providing for a comprehensive process leading to the release of all Kennedy assassination records. The joint resolution, an identical version of which was introduced in the House of Representatives, represented a collaborative effort between our offices and the office of Representative LOUIS STOKES, the distinguished former chairman of the House Assassinations Committee.

Among the original cosponsors of our joint resolution was Senator GLENN, whose Governmental Affairs Committee has skillfully guided, the legisla-

tion to the floor. In a single hearing, the committee carefully examined all of the key issues concerning the legislation. I was pleased to testify at the hearing and explain the purpose and structure of the legislation. The Governmental Affairs Committee made a conscientious and comprehensive effort to refine the legislation, taking into account various interests and realities that came into play. The committee staff worked closely with the staff of the Senate Intelligence Committee, which I chair, as well as other offices in the legislative, executive, and judicial branches and many outside Government.

The version of the legislation now before us, S. 3006, is faithful to the tenets of the joint resolution we originally introduced. Input from various interested parties has reshaped some aspects of the release procedures, but the ultimate goal—full release of all the J.F.K. assassination files—remains the same. S. 3006 has chosen Presidential appointment of the Review Board, with Senate advice and consent, over our choice of judicial appointment, but as I testified at the hearing, this is an acceptable choice. I urged Senator GLENN'S committee to remove from the legislation an exemption for the Review Board from certain open Government laws, and I am pleased that the committee has done so.

As I said in introducing the legislation, the public, and particularly our young people, need to have confidence in the integrity and fairness of their Government. So long as key Kennedy assassination materials remained locked away, there will be those who will believe the Government has something to hide with respect to this heinous crime. We need to open the files. I don't know what is inside them. I don't know if there is any new information that could alter the findings of previous investigation. But the time has come to let the files speak for themselves. Let historians and journalists and the people read them and draw the appropriate conclusions.

It is time to review the records, not in terms of the old assumptions, but rather in light of the need for openness and to encourage confidence in the Government.

As a general principle, the intelligence community should make available its records after the passage of a reasonable amount of time when current sources and methods would no longer be compromised. The American people have a right to assure themselves to the greatest degree possible of the accuracy of the historical record of our Government. The timely release of all documents of historic value and importance helps to assure that even the most secret programs of our Government will be operated in accordance with basic American values. Current intelligence operations will be even more carefully conducted when it is recognized that they will be scrutinized by the public during the lifetime of many of those who administered the programs.

I feel confident that the great majority of the Kennedy assassination material can be promptly released with no adverse effect on the national security of our country, the law enforcement efforts of our Government, or the privacy rights of our people. We can take account of those interests in compelling cases, but the strong presumption in all cases should be in favor of disclosure. As with the original version of the legislation, S. 3006 properly requires that anything not released immediately must be marked with a recommendation of a specified time at which or a specified occurrence following which the material must be disclosed to the public. The public must also be promptly informed about each record withheld from immediate release.

With a few important exceptions—in particular, I would much prefer to ensure prompt disclosure of official records donated pursuant to deeds of gift—other than the autopsy materials—in the manner required by our original joint resolution and the House Government Operations version of the bill, and I don't see the need for a general exemption for tax returns—the differences between S. 3006 and the two versions of the legislation now under consideration in the House come down to minor points of implementation. I urge my colleagues in both Houses to come together promptly to reach a final version.

S. 3006

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "President John F. Kennedy Assassination Records Collection Act of 1992".

SEC. 2. FINDINGS, DECLARATIONS, AND PURPOSES.

(a) FINDINGS AND DECLARATIONS.—The Congress finds and declares that—

(1) all Government records related to the assassination of President John F. Kennedy should be preserved for historical and governmental purposes;

(2) all government records concerning the assassination of President John F. Kennedy should carry a presumption of immediate disclosure, and all records should be eventually disclosed to enable the public to become fully informed about the history surrounding the assassination;

(3) legislation is necessary to create an enforceable, independent, and accountable process for the public disclosure of such records;

(4) legislation is necessary because congressional records related to the assassination of President John F. Kennedy would not otherwise be subject to public disclosure until at least the year 2029;

(5) legislation is necessary because the Freedom of Information Act, as implemented by the executive branch, has prevented the timely public disclosure of records relating to the assassination of President John F. Kennedy;

(6) legislation is necessary because Executive Order No. 12356, entitled "National Security Information" has eliminated the declassification and downgrading schedules relating to classified information across government and has prevented the timely public disclosure of records relating to the assassination of President John F. Kennedy; and

(7) most of the records related to the assassination of President John F. Kennedy are almost 30 years old, and only in the rarest cases is there any legitimate need for continued protection of such records.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide for the creation of the President John F. Kennedy Assassination Records Collection at the National Archives and Records Administration; and

(2) to require the expeditious public transmission to the Archivist and public disclosure of such records.

SEC. 3. DEFINITIONS.

In this Act:

(1) "Archivist" means the Archivist of the United States.

(2) "Assassination record" means a record that is related to the assassination of President John F. Kennedy, that was created or made available for use by, obtained by, or otherwise came into the possession of—

(A) the Commission to Investigate the Assassination of President John F. Kennedy (the "Warren Commission");

(B) the Commission on Central Intelligence Agency Activities Within the United States (the "Rockefeller Commission");

(C) the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (the "Church Committee");

(D) the Select Committee on Intelligence (the "Pike Committee") of the House of Representatives;

(E) the Select Committee on Assassinations (the "House Assassinations Committee") of the House of Representatives;

(F) the Library of Congress;

(G) the National Archives and Records Administration;

(H) any Presidential library;

(I) any Executive agency;

(J) any independent agency;

(K) any other office of the Federal Government; and

(L) any State or local law enforcement office that provided support or assistance or performed work in connection with a Federal inquiry into the assassination of President John F. Kennedy,

but does not include the autopsy records donated by the Kennedy family to the National Archives pursuant to a deed of gift regulating access to those records, or copies and reproductions made from such records.

(3) "Collection" means the President John F. Kennedy Assassination Records Collection established under section 4.

(4) "Executive agency" means an Executive agency as defined in subsection 552(f) of title 5, United States Code, and includes any Executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government, including the Executive Office of the President, or any independent regulatory agency.

(5) "Government office" means any office of the Federal Government that has possession or control of assassination records, including—

(A) the House Committee on Administration with regard to the Select Committee on Assassinations of the records of the House of Representatives;

(B) the Select Committee on Intelligence of the Senate with regard to records of the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities and other assassination records;

(C) the Library of Congress;

(D) the National Archives as custodian of assassination records that it has obtained or possesses, including the Commission to Investigate the Assassination of President John F. Kennedy and the Commission on Central Intelligence Agency Activities in the United States; and

(E) any other executive branch office or agency, and any independent agency.

(6) "Identification aid" means the written description prepared for each record as required in section 4.

(7) "National Archives" means the National Archives and Records Administration and all components thereof, including Presidential archival depositories established under section 2112 of title 44, United States Code.

(8) "Official investigation" means the reviews of the assassination of President John F. Kennedy conducted by any Presidential commission, any authorized congressional committee, and any Government agency either independently, at the request of any Presidential commission or congressional committee, or at the request of any Government official.

(9) "Originating body" means the Executive agency, government commission, congressional committee, or other governmental entity that created a record or particular information within a record.

(10) "Public interest" means the compelling interest in the prompt public disclosure of assassination records for historical and governmental purposes and for the purpose of fully informing the American people about the history surrounding the assassination of President John F. Kennedy.

(11) "Record" includes a book, paper, map, photograph, sound or video recording, machine readable material, computerized, digitized, or electronic information, regardless of the medium on which it is stored, or other documentary material, regardless of its physical form or characteristics.

(12) "Review Board" means the Assassination Records Review Board established by section 7.

(13) "Third agency" means a Government agency that originated an assassination record that is in the possession of another agency.

SEC. 4. PRESIDENT JOHN F. KENNEDY ASSASSINATION RECORDS COLLECTION AT THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.

(a) IN GENERAL.—(1) Not later than 60 days after the date of enactment of this Act, the National Archives and Records Administration shall commence establishment of a collection of records to be known as the President John F. Kennedy Assassination Records Collection. In so doing, the Archivist shall ensure the physical integrity and original provenance of all records. The Collection shall consist of record copies of all Government records relating to the assassination of President John F. Kennedy, which shall be transmitted to the National Archives in accordance with section 2107 of title 44, United States Code. The Archivist shall prepare and publish a subject guidebook and index to the collection.

(2) The Collection shall include—

(A) all assassination records—

(i) that have been transmitted to the National Archives or disclosed to the public in an unredacted form prior to the date of enactment of this Act;

(ii) that are required to be transmitted to the National Archives; or

(iii) the disclosure of which is postponed under this Act;

(B) a central directory comprised of identification aids created for each record transmitted to the Archivist the under section 5; and

(C) all Review Board records as required by this Act.

(b) DISCLOSURE OF RECORDS.—All assassination records transmitted to the National Archives for disclosure to the public shall be included in the Collection and shall be available to the public for inspection and copying at the National Archives within 30 days after their transmission to the National Archives.

(c) FEES FOR COPYING.—The Archivist shall—

(1) charge fees for copying assassination records; and

(2) grant waivers of such fees pursuant to the standards established by section 552(a)(4) of title 5, United States Code.

(d) ADDITIONAL REQUIREMENTS.—(1) The Collection shall be preserved, protected, archived, and made available to the public at the National Archives using appropriations authorized, specified, and restricted for use under the terms of this Act.

(2) The National Archives, in consultation with the Information Security Oversight Office, shall ensure the security of the postponed assassination records in the Collection.

(e) OVERSIGHT.—The Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate shall have continuing oversight jurisdiction with respect to the Collection.

SEC. 5. REVIEW, IDENTIFICATION, TRANSMISSION TO THE NATIONAL ARCHIVES, AND PUBLIC DISCLOSURE OF ASSASSINATION RECORDS BY GOVERNMENT OFFICES.

(a) IN GENERAL.—(1) As soon as practicable after the date of enactment of this Act, each Government office shall identify and organize its records relating to the assassination of President John F. Kennedy and prepare them for transmission to the Archivist for inclusion in the Collection.

(2) No assassination record shall be destroyed, altered, or mutilated in any way.

(3) No assassination record made available or disclosed to the public prior to the date of enactment of this Act may be withheld, redacted, postponed for public disclosure, or reclassified.

(4) No assassination record created by a person or entity outside government (excluding names or identities consistent with the requirements of section 6) shall be withheld, redacted, postponed for public disclosure, or reclassified.

(b) CUSTODY OF ASSASSINATION RECORDS PENDING REVIEW.—During the review by Government offices and pending review activity by the Review Board, each Government office shall retain custody of its assassination records for purposes of preservation, security, and efficiency, unless—

(1) the Review Board requires the physical transfer of records for purposes of conducting an independent and impartial review;

(2) transfer is necessary for an administrative hearing or other Review Board function; or

(3) it is a third agency record described in subsection (c)(2)(C).

(c) REVIEW.—(1) Not later than 300 days after the date of enactment of this Act, each Government office shall review, identify and organize each assassination record in its custody or possession for disclosure to the public, review by the Review Board, and transmission to the Archivist.

(2) In carrying out paragraph (1), a Government office shall—

(A) determine which of its records are assassination records;

(B) determine which of its assassination records have been officially disclosed or publicly available in a complete and unredacted form;

(C)(i) determine which of its assassination records, or particular information contained in such a record, was created by a third agency or by another Government office; and

(ii) transmit to a third agency or other government office those records, or particular information contained in those records, or complete and accurate copies thereof;

(D)(i) determine whether its assassination records or particular information in assassination records are covered by the standards for postponement of public disclosure under this Act; and

(ii) specify on the identification aid required by subsection (d) the applicable postponement provision contained in section 6;

(E) organize and make available to the Review Board all assassination records identified under subparagraph (D) the public disclosure of which in whole or in part may be postponed under this Act;

(F) organize and make available to the Review Board any record concerning which the office has any uncertainty as to whether the record is an assassination record governed by this Act;

(G) give priority to—

(i) the identification, review, and transmission of all assassination records publicly available or disclosed as of the date of enactment of this Act in a redacted or edited form; and

(ii) the identification, review, and transmission, under the standards for postponement set forth in this Act, of assassination records that on the date of enactment of this Act are the subject of litigation under section 552 of title 5, United States Code; and

(H) make available to the Review Board any additional information and records that the Review Board has reason to believe it requires for conducting a review under this Act.

(3) The Director of each archival depository established under section 2112 of title 44, United States Code, shall have as a priority the expedited review for public disclosure of assassination records in the possession and custody of the depository, and shall make such records available to the Review Board as required by this Act.

(d) IDENTIFICATION AIDS.—(1)(A) Not later than 45 days after the date of enactment of this Act, the Archivist, in consultation with the appropriate Government offices, shall prepare and make available to all Government offices a standard form of identification or finding aid for use with each assassination record subject to review under this Act.

(B) The Archivist shall ensure that the identification aid program is established in such a manner as to result in the creation of a uniform system of electronic records by Government offices that are compatible with each other.

(2) Upon completion of an identification aid, a Government office shall—

59-059 O—97 Vol. 138 (Pt. 14) 17

(A) attach a printed copy to the record it describes;

(B) transmit to the Review Board a printed copy; and

(C) attach a printed copy to each assassination record it describes when it is transmitted to the Archivist.

(3) Assassination records which are in the possession of the National Archives on the date of enactment of this Act, and which have been publicly available in their entirety without redaction, shall be made available in the Collection without any additional review by the Review Board or another authorized office under this Act, and shall not be required to have such an identification aid unless required by the Archivist.

(e) TRANSMISSION TO THE NATIONAL ARCHIVES.—Each Government office shall—

(1) transmit to the Archivist, and make immediately available to the public, all assassination records that can be publicly disclosed, including those that are publicly available on the date of enactment of this Act, without any redaction, adjustment, or withholding under the standards of this Act; and

(2) transmit to the Archivist upon approval for postponement by the Review Board or upon completion of other action authorized by this Act, all assassination records the public disclosure of which has been postponed, in whole or in part, under the standards of this Act, to become part of the protected Collection.

(f) CUSTODY OF POSTPONED ASSASSINATION RECORDS.—An assassination record the public disclosure of which has been postponed shall, pending transmission to the Archivist, be held for reasons of security and preservation by the originating body until such time as the information security program has been established at the National Archives as required in section 4(e)(2).

(g) PERIODIC REVIEW OF POSTPONED ASSASSINATION RECORDS.—(1) All postponed or redacted records shall be reviewed periodically by the originating agency and the Archivist consistent with the recommendations of the Review Board under section 9(c)(3)(B).

(2)(A) A periodic review shall address the public disclosure of additional assassination records in the Collection under the standards of this Act.

(B) All postponed assassination records determined to require continued postponement shall require an unclassified written description of the reason for such continued postponement. Such description shall be provided to the Archivist and published in the Federal Register upon determination.

(C) The periodic review of postponed assassination records shall serve to downgrade and declassify security classified information.

(D) Each assassination record shall be publicly disclosed in full, and available in the Collection no later than the date that is 25 years after the date of enactment of this Act, unless the President certifies, as required by this Act, that—

(i) continued postponement is made necessary by an identifiable harm to the military defense, intelligence operations, law enforcement, or conduct of foreign relations; and

(ii) the identifiable harm is of such gravity that it outweighs the public interest in disclosure.

(h) FEES FOR COPYING.—Executive branch agencies shall—

(1) charge fees for copying assassination records; and

(2) grant waivers of such fees pursuant to the standards established by section 552(a)(4) of title 5, United States Code.

SEC. 6. GROUNDS FOR POSTPONEMENT OF PUBLIC DISCLOSURE OF RECORDS.

Disclosure of assassination records or particular information in assassination records to the public may be postponed subject to the limitations of this Act if there is clear and convincing evidence that—

(1) the threat to the military defense, intelligence operations, or conduct of foreign relations of the United States posed by the public disclosure of the assassination is of such gravity that it outweighs the public interest, and such public disclosure would reveal—

(A) an intelligence agent whose identity currently requires protection;

(B) an intelligence source or method which is currently utilized, or reasonably expected to be utilized, by the United States Government and which has not been officially disclosed, the disclosure of which would interfere with the conduct of intelligence activities; or

(C) any other matter currently relating to the military defense, intelligence operations or conduct of foreign relations of the United States, the disclosure of which would demonstrably impair the national security of the United States;

(2) the public disclosure of the assassination record would reveal the name or identity of a living person who provided confidential information to the United States and would pose a substantial risk of harm to that person;

(3) the public disclosure of the assassination record could reasonably be expected to constitute an unwarranted invasion of personal privacy, and that invasion of privacy is so substantial that it outweighs the public interest;

(4) the public disclosure of the assassination record would compromise the existence of an understanding of confidentiality currently requiring protection between a Government agent and a cooperating individual or a foreign government, and public disclosure would be so harmful that it outweighs the public interest; or

(5) the public disclosure of the assassination record would reveal a security or protective procedure currently utilized, or reasonably expected to be utilized, by the Secret Service or another Government agency responsible for protecting Government officials, and public disclosure would be so harmful that it outweighs the public interest.

SEC. 7. ESTABLISHMENT AND POWERS OF THE ASSASSINATION RECORDS REVIEW BOARD.

(a) ESTABLISHMENT.—There is established as an independent agency a board to be known as the Assassinations Records Review Board.

(b) APPOINTMENT.—(1) The President, by and with the advice and consent of the Senate, shall appoint, without regard to political affiliation, 5 citizens to serve as members of the Review Board to ensure and facilitate the review, transmission to the Archivist, and public disclosure of government records related to the assassination of President John F. Kennedy.

(2) The President shall make nominations to the Review Board not later than 90 calendar days after the date of enactment of this Act.

(3) If the Senate votes not to confirm a nomination to the Review Board, the President shall make an additional nomination not later than 30 days thereafter.

(4)(A) The President shall make nominations to the Review Board after considering persons recommended by the American Historical Association, the Organization of American Historians, the Society of American Archivists, and the American Bar Association.

(B) If an organization described in subparagraph (A) does not recommend at least 2 nominees meeting the qualifications stated in paragraph (5) by the date that is 45 days after the date of enactment of this Act, the President shall consider for nomination the persons recommended by the other organizations described in subparagraph (A).

(C) The President may request an organization described in subparagraph (A) to submit additional nominations.

(5) Persons nominated to the Review Board—

(A) shall be impartial private citizens, none of whom is presently employed by any branch of the Government, and none of whom shall have had any previous involvement with any official investigation or inquiry conducted by a Federal, State, or local government, relating to the assassination of President John F. Kennedy;

(B) shall be distinguished persons of high national professional reputation in their respective fields who are capable of exercising the independent and objective judgment necessary to the fulfillment of their role in ensuring and facilitating the review, transmission to the public, and public disclosure of records related to the assassination of President John F. Kennedy and who possess an appreciation of the value of such material to the public, scholars, and government; and

(C) shall include at least 1 professional historian and 1 attorney.

(c) SECURITY CLEARANCES.—(1) All Review Board nominees shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

(2) All nominees shall qualify for the necessary security clearance prior to being considered for confirmation by the Committee on Governmental Affairs of the Senate.

(d) CONFIRMATION HEARINGS.—(1) The Committee on Governmental Affairs of the Senate shall hold confirmation hearings within 30 days in which the Senate is in session after the nomination of 3 Review Board members.

(2) The Committee on Governmental Affairs shall vote on the nominations within 14 days in which the Senate is in session after the confirmation hearings, and shall report its results to the full Senate immediately.

(3) The Senate shall vote on each nominee to confirm or reject within 14 days in which the Senate is in session after reported by the Committee on Governmental Affairs.

(e) VACANCY.—A vacancy on the Review Board shall be filled in the same manner as specified for original appointment within 30 days of the occurrence of the vacancy.

(f) CHAIRPERSON.—The Members of the Review Board shall elect one of its members as chairperson at its initial meeting.

(g) REMOVAL OF REVIEW BOARD MEMBER.—(1) No member of the Review Board shall be removed from office, other than—

(A) by impeachment and conviction; or

(B) by the action of the President for inefficiency, neglect of duty, malfeasance in office, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the member's duties.

(2)(A) If a member of the Review Board is removed from office, and that removal is by the President, not later than 10 days after the removal the President shall submit to the Committee on Government Operations of

the House of Representatives and the Committee on Governmental Affairs of the Senate a report specifying the facts found and the grounds for the removal.

(B) The President shall publish in the Federal Register a report submitted under paragraph (2)(A), except that the President may, if necessary to protect the rights of a person named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report until the completion of such pending cases or pursuant to privacy protection requirements in law.

(3)(A) A member of the Review Board removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court for the District of Columbia.

(B) The member may be reinstated or granted other appropriate relief by order of the court.

(h) COMPENSATION OF MEMBERS.—(1) A member of the Review Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Review Board.

(2) A member of the Review Board shall be allowed reasonable travel expenses, including per diem in lieu of subsistence, at rates for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the member's home or regular place of business in the performance of services for the Review Board.

(i) DUTIES OF THE REVIEW BOARD.—(1) The Review Board shall consider and render decisions on a determination by a Government office to seek to postpone the disclosure of assassination records.

(2) In carrying out paragraph (1), the Review Board shall consider and render decisions—

(A) whether a record constitutes an assassination record; and

(B) whether an assassination record or particular information in a record qualifies for postponement of disclosure under this Act.

(j) POWERS.—(1) The Review Board shall have the authority to act in a manner prescribed under this Act including authority to—

(A) direct Government offices to complete identification aids and organize assassination records;

(B) direct Government offices to transmit to the Archivist assassination records as required under this Act, including segregable portions of assassination records, and substitutes and summaries of assassination records that can be publicly disclosed to the fullest extent;

(C)(i) obtain access to assassination records that have been identified and organized by a Government office;

(ii) direct a Government office to make available to the Review Board, and if necessary investigate the facts surrounding, additional information, records, or testimony from individuals, which the Review Board has reason to believe is required to fulfill its functions and responsibilities under this Act; and

(iii) request the Attorney General to subpoena private persons to compel testimony, records, and other information relevant to its responsibilities under this Act;

(D) require any Government office to account in writing for the destruction of any records relating to the assassination of President John F. Kennedy;

(E) receive information from the public regarding the identification and public disclosure of assassination records; and

(F) hold hearings, administer oaths, and subpoena witnesses and documents.

(2) A subpoena issued under paragraph (1)(C)(iii) may be enforced by any appropriate Federal court acting pursuant to a lawful request of the Review Board.

(k) WITNESS IMMUNITY.—The Review Board shall be considered to be an agency of the United States for purposes of section 6001 of title 18, United States Code.

(l) OVERSIGHT.—(1) The Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate shall have continuing oversight jurisdiction with respect to the official conduct of the Review Board and the disposition of postponed records after termination of the Review Board, and shall have access to any records held or created by the Review Board.

(2) The Review Board shall have the duty to cooperate with the exercise of such oversight jurisdiction.

(m) SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide administrative services for the Review Board on a reimbursable basis.

(n) INTERPRETIVE REGULATIONS.—The Review Board may issue interpretive regulations.

(o) TERMINATION AND WINDING UP.—(1) The Review Board and the terms of its members shall terminate not later than 2 years after the date of enactment of this Act, except that the Review Board may, by majority vote, extend its term for an additional 1-year period if it has not completed its work within that 2-year period.

(2) Upon its termination, the Review Board shall submit reports to the President and the Congress including a complete and accurate accounting of expenditures during its existence, and shall complete all other reporting requirements under this Act.

(3) Upon termination and winding up, the Review Board shall transfer all of its records to the Archivist for inclusion in the Collection, and no record of the Review Board shall be destroyed.

SEC. 8. ASSASSINATION RECORDS REVIEW BOARD PERSONNEL.

(a) EXECUTIVE DIRECTOR.—(1) Not later than 45 days after the initial meeting of the Review Board, the Review Board shall appoint one citizen, without regard to political affiliation, to the position of Executive Director.

(2) The person appointed as Executive Director shall be a private citizen of integrity and impartiality who is a distinguished professional and who is not a present employee of any branch of the Government and has had no previous involvement with any official investigation or inquiry relating to the assassination of President John F. Kennedy.

(3)(A) A candidate for Executive Director shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

(B) A candidate shall qualify for the necessary security clearance prior to being approved by the Review Board.

(4) The Executive Director shall—

(A) serve as principal liaison to Government offices;

(B) be responsible for the administration and coordination of the Review Board's review of records;

(C) be responsible for the administration of all official activities conducted by the Review Board; and

(D) have no authority to decide or determine whether any record should be disclosed to the public or postponed for disclosure.

(5) The Executive Director shall not be removed for reasons other than by a majority vote of the Review Board for cause on the grounds of inefficiency, neglect of duty, malfeasance in office, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the responsibilities of the Executive Director or the staff of the Review Board.

(b) STAFF.—(1) The Review Board may, in accordance with the civil service laws but without regard to civil service law and regulation for competitive service as defined in subchapter 1, chapter 33 of title 5, United States Code, appoint and terminate additional personnel as are necessary to enable the Review Board and its Executive Director to perform its duties.

(2) A person appointed to the staff of the Review Board shall be a private citizen of integrity and impartiality who is not a present employee of any branch of the Government and who has had no previous involvement with any official investigation or inquiry relating to the assassination of President John F. Kennedy.

(3)(A) A candidate for staff shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

(B) A candidate for the staff shall qualify for the necessary security clearance prior to being approved by the Review Board.

(c) COMPENSATION.—The Review Board shall fix the compensation of the Executive Director and other personnel in accordance with title 5, United States Code, except that the rate of pay for the Executive Director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(d) ADVISORY COMMITTEES.—(1) The Review Board shall have the authority to create advisory committees to assist in fulfilling the responsibilities of the Review Board under this Act.

(2) Any advisory committee created by the Review Board shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 9. REVIEW OF RECORDS BY THE ASSASSINATION RECORDS REVIEW BOARD.

(a) CUSTODY OF RECORDS REVIEWED BY BOARD.—Pending the outcome of the Review Board's review activity, a Government office shall retain custody of its assassination records for purposes of preservation, security, and efficiency, unless—

(1) the Review Board requires the physical transfer of records for reasons of conducting an independent and impartial review; or

(2) such transfer is necessary for an administrative hearing or other official Review Board function.

(b) STARTUP REQUIREMENTS.—The Review Board shall—

(1) not later than 90 days after the date of its appointment, publish a schedule for review of all assassination records in the Federal Register; and

(2) not later than 180 days after the date of enactment of this Act, begin its review of assassination records under this Act.

(c) DETERMINATIONS OF THE REVIEW BOARD.—(1) The Review Board shall direct that all assassination records be transmitted to the Archivist and disclosed to the public in the Collection in the absence of clear and convincing evidence that—

(A) a Government record is not an assassination record; or

(B) a Government record or particular information within an assassination record qualifies for postponement of public disclosure under this Act.

(2) In approving postponement of public disclosure of an assassination record, the Review Board shall seek to—

(A) provide for the disclosure of segregable parts, substitutes, or summaries of such a record; and

(B) determine, in consultation with the originating body and consistent with the standards for postponement under this Act, which of the following alternative forms of disclosure shall be made by the originating body:

(i) Any reasonably segregable particular information in an assassination record.

(ii) A substitute record for that information which is postponed.

(iii) A summary of an assassination record.

(3) With respect to each assassination record or particular information in assassination records the public disclosure of which is postponed pursuant to section 6, or for which only substitutions or summaries have been disclosed to the public, the Review Board shall create and transmit to the Archivist a report containing—

(A) a description of actions by the Review Board, the originating body, the President, or any Government office (including a justification of any such action to postpone disclosure of any record or part of any record) and of any official proceedings conducted by the Review Board with regard to specific assassination records; and

(B) a statement, based on a review of the proceedings and in conformity with the decisions reflected therein, designating a recommended specified time at which or a specified occurrence following which the material may be appropriately disclosed to the public under this Act.

(4)(A) Following its review and a determination that an assassination record shall be publicly disclosed in the Collection or postponed for disclosure and held in the protected Collection, the Review Board shall notify the head of the originating body of its determination and publish a copy of the determination in the Federal Register within 14 days after the determination is made.

(B) Contemporaneous notice shall be made to the President for Review Board determinations regarding executive branch assassination records, and to the oversight committees designated in this Act in the case of legislative branch records. Such notice shall contain a written unclassified justification for public disclosure or postponement of disclosure, including an explanation of the application of any standards contained in section 6.

(d) PRESIDENTIAL AUTHORITY OVER REVIEW BOARD DETERMINATION.—

(1) PUBLIC DISCLOSURE OR POSTPONEMENT OF DISCLOSURE.—After the Review Board has made a formal determination concerning the public disclosure or postponement of disclosure of an executive branch assassination record or information within such a record, or of any information contained in an assassination record, obtained or developed solely within the executive branch, the President shall have the sole and nondelegable authority to require the disclosure or postponement of such record or information under the standards set forth in section 6, and the President shall provide the Review Board with an unclassified written certification specifying the President's decision within 30 days after the Review Board's determination and notice to the executive branch agency as required under this Act, stating the justification for the President's decision, including the applicable grounds for postponement under section 6, accompanied by a copy of the identification aid required under section 4.

(2) PERIODIC REVIEW.—Any executive branch assassination record postponed by the President shall be subject to the requirements of periodic review, downgrading and declassification of classified information, and public disclosure in the collection set forth in section 4.

(3) RECORD OF PRESIDENTIAL POSTPONEMENT.—The Review Board shall, upon its receipt, publish in the Federal Register a copy of any unclassified written certification, statement, and other materials transmitted by or on behalf of the President with regard to postponement of assassination records.

(e) NOTICE TO PUBLIC.—Every 30 calendar days, beginning on the date that is 60 calendar days after the date on which the Review Board first approves the postponement of disclosure of an assassination record, the Review Board shall publish in the Federal Register a notice that summarizes the postponements approved by the Review Board or initiated by the President, the House of Representatives, or the Senate, including a description of the subject, originating agency, length or other physical description, and each ground for postponement that is relied upon.

(f) REPORTS BY THE REVIEW BOARD.—(1) The Review Board shall report its activities to the leadership of the Congress, the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, the President, the Archivist, and the head of any Government office whose records have been the subject of Review Board activity.

(2) The first report shall be issued on the date that is 1 year after the date of enactment of this Act, and subsequent reports every 12 months thereafter until termination of the Review Board.

(3) A report under paragraph (1) shall include the following information:

(A) A financial report of the expenses for all official activities and requirements of the Review Board and its personnel.

(B) The progress made on review, transmission to the Archivist, and public disclosure of assassination records.

(C) The estimated time and volume of assassination records involved in the completion of the Review Board's performance under this Act.

(D) Any special problems, including requests and the level of cooperation of government offices, with regard to the ability of the Review Board to operate as required by this Act.

(E) A record of review activities, including a record of postponement decisions by the Review Board or other related actions authorized by this Act, and a record of the volume of records reviewed and postponed.

(F) Suggestions and requests to Congress for additional legislative authority needs.

(G) An appendix containing copies of reports of postponed records to the Archivist required under section 9(c)(3) made since the date of the preceding report under this subsection.

(4) At least 90 calendar days before completing its work, the Review Board shall provide written notice to the President and Congress of its intention to terminate its operations at a specified date.

SEC. 10. DISCLOSURE OF OTHER MATERIALS AND ADDITIONAL STUDY.

(a) MATERIALS UNDER SEAL OF COURT.—

(1) The Review Board may request the Attorney General to petition any court in the United States or abroad to release any information relevant to the assassination of President John F. Kennedy that is held under seal of the court.

(2)(A) The Review Board may request the Attorney General to petition any court in the United States to release any information relevant to the assassination of President John F. Kennedy that is held under the injunction of secrecy of a grand jury.

(B) A request for disclosure of assassination materials under this Act shall be deemed to constitute a showing of particularized need under Rule 6 of the Federal Rules of Criminal Procedure.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Attorney General should assist the Review Board in good faith to unseal any records that the Review Board determines to be relevant and held under seal by a court or under the injunction of secrecy of a grand jury;

(2) the Secretary of State should contact the Government of the Republic of Russia and seek the disclosure of all records of the government of the former Soviet Union, including the records of the Komitet Gosudarstvennoy Bezopasnosti (KGB) and the Glaynoye Razvedyvatelnoye Upravleniye (GRU), relevant to the assassination of President Kennedy, and contact any other foreign government that may hold information relevant to the assassination of President Kennedy and seek disclosure of such information; and

(3) all Executive agencies should cooperate in full with the Review Board to seek the disclosure of all information relevant to the assassination of President John F. Kennedy consistent with the public interest.

SEC. 11. RULES OF CONSTRUCTION.

(a) PRECEDENCE OVER OTHER LAW.—When this Act requires transmission of a record to the Archivist or public disclosure, it shall take precedence over any other law (except section 6103 of the Internal Revenue Code), judicial decision construing such law, or common law doctrine that would otherwise prohibit such transmission or disclosure, with the exception of deeds governing access to or transfer or release of gifts and donations of records to the United States Government.

(b) FREEDOM OF INFORMATION ACT.—Nothing in this Act shall be construed to eliminate or limit any right to file requests with any Executive agency or seek judicial review of the decisions pursuant to section 552 of title 5, United States Code.

(c) JUDICIAL REVIEW.—Nothing in this Act shall be construed to preclude judicial review, under chapter 7 of title 5, United States Code, of final actions taken or required to be taken under this Act.

(d) EXISTING AUTHORITY.—Nothing in this Act revokes or limits the existing authority of the President, any executive agency, the Senate, or the House of Representatives, or any other entity of the Government to publicly disclose records in its possession.

(e) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—To the extent that any provision of this Act establishes a procedure to be followed in the Senate or the House of Representatives, such provision is adopted—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the

rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 12. TERMINATION OF EFFECT OF ACT.

(a) PROVISIONS PERTAINING TO THE REVIEW BOARD.—The provisions of this Act that pertain to the appointment and operation of the Review Board shall cease to be effective when the Review Board and the terms of its members have terminated pursuant to section 7(o).

(b) OTHER PROVISIONS.—The remaining provisions of this Act shall continue in effect until such time as the Archivist certifies to the President and the Congress that all assassination records have been made available to the public in accordance with this Act.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act, to remain available until expended.

(b) INTERIM FUNDING.—Until such time as funds are appropriated pursuant to subsection (a), the President may use such sums as are available for discretionary use to carry out this Act.

SEC. 14. SEVERABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of that provision to other persons not similarly situated or to other circumstances shall not be affected by the invalidation.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENDING BOUNDARIES OF GROUNDS OF THE NATIONAL GALLERY OF ART

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5059, a bill to extend the boundaries of the National Gallery of Art to include the National Sculpture Garden, just received from the House, and that the bill be deemed read a third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 5059) was deemed read a third time, and passed.

REVISED EDITION OF STANDING RULES

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be directed to prepare a revised edition of the Standing Rules of the Senate, and that such standing rules be printed as a Senate document.

I further ask unanimous consent that 2,500 additional copies of this document be printed for the use of the Committee on Rules and Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

NATIONAL SCIENCE FOUNDATION—MESSAGE FROM THE PRESIDENT—PM 264

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was reported to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with 42 U.S.C. 1863(j)(1), I transmit herewith the annual report of the National Science Foundation for Fiscal Year 1991.

GEORGE BUSH.

THE WHITE HOUSE, *July 27, 1992.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3687. A communication from the Assistant Secretary of Energy (Environmental Restoration and Waste Management), transmitting, pursuant to law, a report detailing the expenditure of Fiscal Year 1991 Environmental Restoration and Waste Management funds for defense and non-defense activities and the accomplishments to date compared to the milestone for each task; to the Committee on Armed Services.

EC–3688. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on improvements in the National Technical Information Service; to the Committee on Commerce, Science and Transportation.

EC–3689. A communication from the Director of the United States Arms Control and Disarmament Agency, transmitting a draft of proposed legislation to amend the Arms Control and Disarmament Act in order to increase the authorization for appropriations for Fiscal Year 1993; to the Committee on Foreign Relations.

EC–3690. A communication from the Administrator of the Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to amend the Miller Act to increase the statutory threshold; to the Committee on Governmental Affairs.

EC–3691. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, a report on the implementation of the Indian Self-Determination and Education Assistance Act, as amended, for fiscal year 1991; to the Select Committee on Indian Affairs.

EC–3692. A communication from the Chairman of the National Commission for Employment Policy, transmitting, a report entitled "Using Unemployment Insurance Wage-Record Data for JTPA Performance Management"; to the Committee on Labor and Human Resources.

EC–3693. A communication from the Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, a notice on leasing systems for the Western Gulf of Mexico scheduled for August 1992; to the Committee on Energy and Natural Resources.

EC–3694. A communication from the Acting Chief of the Forest Service, Department of Agriculture, transmitting, pursuant to law, a report entitled "Potential Impacts of Aircraft Overflights of National Forest System Wildernesses"; to the Committee on Energy and Natural Resources.

EC–3695. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the Fort McDowell Indian Community loan application; to the Committee on Energy and Natural Resources.

EC–3696. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the receipt of project proposals; to the Committee on Energy and Natural Resources.

EC–3697. A communication from the Inspector General of the Department of Health and Human Services, transmitting, pursuant to law, the annual report of the Inspector General for calendar year 1991; to the Committee on Environment and Public Works.

EC–3698. A communication from the Inspector General of the Department of Health and Human Services, transmitting, pursuant to law, the annual audit report of the Inspector General for calendar year 1991; to the Committee on Environment and Public Works.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–430. A resolution adopted by the General Assembly of the State of New Jersey favoring the maintenance of the policy utilizing homeport based contractors to repair ships assigned to the New Jersey/New York homeport; to the Committee on Armed Services.

"ASSEMBLY RESOLUTION NO. 69

"Whereas, the current national recession has hit the New Jersey/New York region inordinately hard, resulting in a loss of 500,000 jobs since 1990, with 200,000 additional jobs projected to be lost in 1992; and

"Whereas, the United States Navy's policy of having ships assigned to a homeport repaired by homeport based contractors helps boost the industry and economy of the homeport area by utilizing the ship repair, technical, and management skills of homeport based contractors; and

"Whereas, the United States Navy's initial plan for the repair and maintenance of its

ships that are assigned to homeports in the New Jersey/New York harbor called for the continuation of this policy of utilizing homeport based contractors to maintain and repair its ships; and

"Whereas, the United States Navy is currently taking steps to change this policy to allow East Coast contractors to bid on repair and maintenance contracts for ships assigned to homeports in the New Jersey/New York harbor; and

"Whereas, such outside based contractors, if awarded repair and maintenance contracts of Navy ships that are assigned to homeports in the New Jersey/New York harbor, would utilize their own employees and staffs; and

"Whereas, such a result would minimize the number of new job opportunities in the New Jersey/New York port region and would thus fail to provide the needed economic boost to the region that a homeport based ship repair and maintenance contract would provide; now, therefore be it

Resolved by the General Assembly of the State of New Jersey:

"1. Congress of the United States and the Secretary of the Navy are respectfully memorialized to maintain the policy of utilizing homeport based contractors to repair ships assigned to homeports in the New Jersey/New York harbor.

"2. Duly authenticated copies of this resolution shall be transmitted to the presiding officers of the United States Senate and House of Representatives and to every member of Congress elected from the State of New Jersey and the Secretary of the Navy.

STATEMENT

"This resolution calls on the United States Congress and the Secretary of Navy to maintain its policy of utilizing homeport based contractors to repair Navy ships operating out of the New Jersey/New York homeport. The Navy is currently accepting proposals for a five year maintenance and repair contract for its ships assigned to the New Jersey/New York harbor, and has, contrary to its past practices, advertised for bids form contractors outside the homeport based area. Such a policy would be harmful to the New Jersey/New York region as it would minimize the number of new job opportunities for homeport based industries and would thus fail to give the region a needed economic boost.

"Memorializes the United States Congress and Secretary of Navy to maintain the policy of utilizing homeport based contractors to repair ships based in the New Jersey/New York homeport."

POM–431. A resolution adopted by the Office of the Selectment, Assessors and Overseers of the Poor, favoring the operation, development, and diversification of the U.S. Naval Shipyard at Kittery, ME; to the Committee on Armed Services.

POM–432. A joint resolution adopted by the Legislature of the State of California, favoring the continuation of the essential components of the dual banking system; to the Committee on Banking, Housing and Urban Affairs.

"SENATE JOINT RESOLUTION NO. 24

"Whereas, this country maintains a dual banking system whereby banks in California may elect whether to be state chartered banks subject to regulation by the State banking Department or federally chartered banks subject to regulation by the Comptroller of the Currency; and

"Whereas, the State Banking Department is authorized to approve all applications for state chartered banks to engage in the business of banking in this state; and

"Whereas, State chartered banks in California are allowed to provide certain products and services under California law that federally chartered banks are not allowed to provide under current federal law; and

"Whereas, California banking laws promote capital availability, strengthen economic development,and encourage community reinvestment in this state; and

"Whereas, it is of great importance that the State of California retain the ability to equitably tax both state and federally chartered banks; and

"Whereas, the United States Treasury recently proposed a plan to reform and restructure this country's financial system by reducing or eliminating state regulation of banks in favor of increased regulation by the Federal Reserve; and

"Whereas, the Legislature of the State of California, reaffirms and restates its support for the continuation of the dual banking system in California; now, therefore, be it

Resolved by the Senate and Assembly of the State of California jointly, That the Legislature of the State of California respectfully memorializes the President, the Congress, and the Treasury Department to retain and continue the essential components of the dual banking system and ensure that any reforms to the federal deposit insurance system apply equally to all depositors in financial institutions of any size; and recognize that it is imperative that any changes in federal banking laws not impair the ability of the State of California to tax banks in this state; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the president and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the United States Secretary of the Treasury."

POM–433. A joint resolution adopted by the Legislature of the State of California favoring the enactment of federal legislation to improve air safety at major United States airports; to the Committee on Commerce, Science and Transportation.

"SENATE JOINT RESOLUTION NO. 9

"Whereas, a recent ground collision between a USAir jetliner and a commuter plane, which has so far left 34 people dead, has been attributed to air controller error and malfunctioning radar; and

"Whereas, those conditions might have been prevented had the Aviation Trust Fund spent some of the $10 billion it has set aside for modernization of the nation's air traffic control system; and

"Whereas, air traffic controllers, trained and hired by the Federal Aviation Administration (FAA), are short an estimated 3,000 controllers nationwide, according to the National Air Traffic Controllers Association, and some of these, according to Los Angeles Times research, appear to receive inadequate training at smaller airports before being stationed at major airports such as Los Angeles International Airport (LAX); Now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to improve air safety at major United States airports, including provisions for a review of the number of air traffic controllers hired and trained since the 1981 strike, a determination of the additional number of controllers needed and the percentage of current controllers rated at full-performance level, and an investigation of the need for measures to facilitate emergency operations in the event of massive casualties in airport crashes; and be it further

"Resolved, That the Legislature of the State of California supports the implementation by the Federal Aviation Administration of internationally recognized standards of safety relative to uniform runway and taxiway operational parameters; and be it further

"Resolved, That the Legislature of the State of California requests an investigation by the Federal Aviation Administration into the interior safety of airplanes in regard to the flammability of, and the potential to produce toxic smoke, in materials used; and be it further

"Resolved, That the Legislature of the State of California requests the federal government to assist in the expeditious building, staffing, and operation of a new replacement air traffic control tower at Los Angeles International Airport (LAX); and be it further

"Resolved, That the Legislature of the State of California supports the expeditious release and appropriation by the Congress of moneys in the Airport and Airways Trust Fund; and be it further

"Resolved, That the Legislature of the State of California supports the expeditious implementation of the National Airspace System Plan and the procurement of Improved Airport Surface Detection Equipment (ASDE–3 radar) by the Federal Aviation Administration at all California commercial airports; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–434. A joint resolution adopted by the Legislature of the State of California favoring the enactment of federal legislation requiring the Department of Transportation to adopt an emergency regulation to immediately reclassify metam sodium as a hazardous substance, and for other purposes; to the Committee on Commerce, Science and Transportation.

"SENATE JOINT RESOLUTION NO. 28

"Whereas, on July 14, 1991, a major derailment in Shasta County, California between Dunsmuir and Mount Shasta involving a Southern Pacific Transportation Company freight train caused a single-wall tank car to spill its contents of the chemical metam sodium into the Sacramento River, fouling the river, killing fish and wildlife, and sickening some nearby residents; and

"Whereas, between 1976 and 1990, 43 derailments or other accidents have occurred on this 20-mile section of track, and the metam sodium spill is the 20th rail accident in the past 15 years on the same three miles of track; and

"Whereas, single-wall rail tank cars experience punctures, and resultant dangerous leaks, in accidents twice as often as double-wall rail tank cars; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly That the California Legislature respectfully memorializes the President and Congress of the United States to do all of the following:

"(1) Require the United States Department of Transportation to adopt an emergency regulation to immediately reclassify metam sodium as a hazardous substance so that it may be transported only in double-wall rail tank cars appropriately placarded and then adopt a regulation through the regular process with the same effect;

"(2) Require the United States Department of Transportation to investigate and review other chemical compounds not presently considered to be hazardous or toxic for possible reclassification as hazardous substances; and

"(3) Require the Federal Railroad Administration to increase the enforcement of rail speed limitations and the National Transportation Safety Board to investigate conditions on the 20-mile section of track between Dunsmuir and Mount Shasta; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the United States Department of Transportation, to the Federal Railroad Administration, and to the National Transportation Safety Board."

POM-435. A resolution adopted by the General Assembly of the State of New Jersey favoring federal action to ensure that the incident involving the loss of arsenic drums from the 'Santa Clara I' is not repeated; to the Committee on Commerce, Science and Transportation.

"ASSEMBLY RESOLUTION NO. 56

"Whereas, on the evening of January 3, 1992, the 492-foot Panamanian-registered cargo vessel 'Santa Clara I' departed the port of Newark-Elizabeth, enroute to Baltimore, Maryland by way of the Ambrose Light, Cape Henolopen and the Chesapeake and Delaware Canal, carrying, among other items, intermodal containers of arsenic trioxide containing individual drums weighing approximately 374 pounds, which were lashed to her decks; and

"Whereas, during the passage the vessel encountered heavy weather resulting from the January 3rd and 4th storm that affected coastal Delaware, Maryland, and New Jersey, as the result of which a number of these containers were lost overboard, including four intermodal containers each loaded with 108 drums of arsenic trioxide, and nine drums from damaged containers that did not fall overboard, resulting in a total loss of approximately 441 drums of the total substance; and

"Whereas, the arsenic trioxide which was lost from the 'Santa Clara I' is a hazardous substance, which if discharged or released, can cause injury to humans through direct physical contact, inhalation or ingestion, and may also have an adverse effect upon marine animals and plants, which potential adverse effects have resulted in the closure of the waters in question to fishing by the United States Food and Drug Administration; and

"Whereas, the drums of arsenic trioxide were lost in an area of the Atlantic Ocean which is regularly used by commercial, sport, and recreational fishermen from New Jersey and Delaware, and that the presence of the arsenic trioxide in these waters could become a threat to the waters of southern New Jersey and the Delaware Bay, which support right, humpback and fin whales, bottlenose dolphins, loggerhead and ridley turtles, surf clams, ocean quahog, mackerel, summer flounder, striped bass, bluefish, scup, tuna and other species targeted by fishing vessels; and

"Whereas, it is altogether fitting and proper for the Legislature to express its concern over the presence of the arsenic trioxide drums in waters appertaining to those of this State, and to make known its sentiment that the appropriate committees of the Congress of the United States should undertake a thorough review, and, if necessary, revision of those laws and administrative regulations, respectively, which pertain to the transport of hazardous materials at sea, particularly relating to the question of allowing the transport of hazardous substances above, rather than below deck, and the procedures for inspections of vessels carrying this type of cargo, so that incidents of this nature can be prevented or minimized in the future; now, therefore,

Be it resolved by the General Assembly of the State of New Jersey:

"1. The Members of the Congress of the United States, particularly those members elected from this State, are respectfully memorialized to use their good offices to ensure that the federal government takes action to ensure that the incident involving the loss of arsenic drums from the 'Santa Clara I' is not repeated, and that the appropriate committees of the Congress review existing statutory laws and administrative regulations pertaining to the transport of hazardous material at sea, and to revise those laws or regulations in order to prevent such incidents from occurring in the future.

"2. A duly authenticated copy of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the Chairman of the Senate Committee on Commerce, Science, and Transportation, the Chairman of the House Committee on Merchant Marine and Fisheries, and every member of Congress elected from this State.

STATEMENT

"This resolution memorializes the Congress of the United States to take certain actions regarding the loss of approximately 441 drums of arsenic trioxide from the freighter 'Santa Clara I,' in the waters approximately 30 miles east of Cape May.

"Specifically, the resolution memorializes the appropriate committees of Congress to review, and if necessary, revise by corrective legislation, those laws or administrative regulations governing the safe transport of hazardous materials at sea. At the time of the discharge incident, the intermodal containers which held the individual drums of arsenic trioxide were lashed above deck, rather than stored below.

"Memorializes U.S. Congress to take certain actions regarding lost arsenic drums in ocean waters off Cape May."

POM-436. A concurrent resolution adopted by the Legislature of the State of California favoring that a portion of Interstate 210 be officially designated the 'Foothill Freeway'; to the Committee on Environment and Public Works.

"SENATE CONCURRENT RESOLUTION NO. 29

"Resolved by the Senate of the State of California, the Assembly thereof concurring, That the portion of Interstate 210 from its junction with Interstate Route 5 in Los Angeles, together with those portions of State Highway Route 30 which are constructed to freeway standards, to its junction with Interstate Route 10 in Redlands, be officially designated the 'Foothill Freeway'; and be it further

"Resolved, That the Department of Transportation is requested to determine the cost of erecting appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing the official designation and, upon receiving contributions from nonstate sources to cover that cost, to erect those plaques and markers; and be it further

"Resolved, "That the Secretary of the Senate transmit copies of this resolution to the Director of Transportation, to the city clerks of the cities of Los Angeles, San Fernando, Glendale, La Canada-Flintridge, Pasadena, Arcadia, Monrovia, Duarte, Irwindale, Azuza, Glendora, San Dimas, Highland, Redlands, La Verne, Claremont, Upland, Rancho Cucamonga, Fontana, Rialto, and San Bernardino, and to the county clerks of the Counties of Los Angeles and San Bernardino."

POM-437. A joint resolution adopted by the Legislature of the State of California favoring the prohibition against the use of federal funds for toll roads, except for demonstration projects currently authorized by Congress, toll bridges, and toll roads financed with interest bearing loans; to the Committee on Environment and Public Works.

"SENATE JOINT RESOLUTION NO. 15

"Whereas, the President of the United States has proposed a surface transportation reauthorization bill, which calls for tolls on interstate highways and federal subsidies for private toll roads; and

"Whereas, the California Department of Transportation has suggested that toll roads built under the President's proposal be modeled after the four toll road projects authorized in California by Section 143 of the Streets and Highways Code; and

"Whereas, the department has also suggested that Congress authorize the use of federal funds for the four demonstration projects authorized by Section 143; and

"Whereas, the language of Section 143 and the legislative history of the bill that added that section clearly indicate that only private funds were to be used to build the demonstration projects; and

"Whereas, the private developers selected for those projects have been given contracts containing the following provisions;

"(1) Large "franchise zones" within which competing projects, including improvements to many public roads, are prohibited.

"(2) The right of the developer to lease miles of airspace along toll roads for a nominal fee, on which the developers can build gas stations, restaurants, shopping centers, and other buildings.

"(3) No limit on the amount of tolls that the developer can charge.

"(4) Developers are allowed profits in excess of 20 percent from the tolls.

"(5) No limit on the profit developers can realize from airspace revenues.

"(6) Developers, through the Department of Transportation, may condemn land for the projects; and

"Whereas, the Legislature of the State of California finds that it is inappropriate to provide federal subsidies to private toll road investors; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to retain the prohibi-

tion against the use of federal funds for toll roads, except for demonstration projects currently authorized by Congress, toll bridges, and toll roads financed with interest bearing loans, and not to enact any surface transportation reauthorization act that includes the imposition of tolls on interstate highways; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–438. A concurrent resolution adopted by the Legislature of the State of Louisiana favoring the authorization and directing of the United States Army Corps of Engineers to renegotiate the terms of their contract with the State of Louisiana on the Caernarvon Fresh Water Diversion project to allow the Plaquemines Parish local government to determine the operation procedures for the structure to achieve the greatest potential from the project; to the Committee on Environment and Public Works.

"Whereas, the Caernarvon Fresh Water Diversion project was in the planning stage almost twenty years ago; and

"Whereas, the United States Army Corps of Engineers designed the project based on a model to represent the effect of actual operations; and

"Whereas, when the diversion structure was finally completed the corps discovered that their operations model was defective; and

"Whereas, Plaquemines Parish has a great deal of physical experience with the operation of other fresh water diversion structures which the parish operates in the area; and

"Whereas, the legislature believes that the local governing authority is better suited to make the daily operating decisions to achieve the greatest potential from the structure; and

"Whereas, if the day to day operations of the structure is turned over to the local governing authority, the oversight, monitoring, and annual decisions regarding operations would still be reviewed by the interagency advisory council; and

"Whereas, the terms of contract between the Department of the Army and the State of Louisiana, dated November 18, 1985, December 1986, and June 10, 1987, pertaining to the United States Army Corps of Engineers furnishing the operations guidelines for the project should be renegotiated to allow the operations to be determined by Plaquemines Parish with oversight by the corps and the Department of Natural Resources of Louisiana.

"Therefore, be it resolved that the Legislature of Louisiana does hereby memorialize the Congress of the United States to authorize and direct the United States Army Corps of Engineers to renegotiate the terms of their contract with the State of Louisiana on the Caernarvon Fresh Water Diversion project to allow the Plaquemines Parish local government to determine the operation procedures for the structure to achieve the greatest potential from the project.

"Be it further resolved that all other terms of the contract shall remain the same with oversight of the operations by the Louisiana Department of Natural Resources and the United States Army Corps of Engineers through the interagency advisory council.

"Be it further resolved that a copy of this Resolution be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives, to each member of the Louisiana congressional delegation, the District Engineer, United States Army Corps of Engineers, Attention: CELMN–RE, P.O. Box 60267, New Orleans, Louisiana, 70160–0267, to the Secretary, Department of Natural Resources, P.O. Box 94396, Baton Rouge, Louisiana, 70804, and to the Parish President, Plaquemines Parish Government, Parish Administration Building, Port Sulphur, Louisiana, 70083."

POM–439. A concurrent resolution adopted by the Legislature of the State of Louisiana favoring the authorization and directing of the United States Army Corps of Engineers to evaluate the federal interest in continuing to operate and maintain the Mississippi River Gulf Outlet, and that such an evaluation shall include consideration of the social, economic, and environmental benefits and costs associated with continued Operation and maintenance of the Mississippi River Gulf Outlet; to the Committee on Environment and Public Works.

"SENATE CONCURRENT RESOLUTION NO. 207

"Whereas, Louisiana is losing its valuable coastal wetlands at an alarming rate; and

"Whereas, Louisiana has initiated an aggressive Program to reduce the rate of wetlands loss; and

"Whereas, the Mississippi River Gulf Outlet was 500 feet wide when it first opened for operation in 1968, but now exceeds 1,500 feet in width in some areas due to severe bankline erosion; and

"Whereas, the Mississippi River Gulf Outlet has caused enormous wetland losses since its construction, including the loss of over 5,000 acres of wetlands since 1968; and

"Whereas, during the next fifty years the wetland losses caused by the Mississippi River Gulf Outlet are expected to be approximately 5,000 acres; and

"Whereas, only a small portion of the cargo handled by the Port of New Orleans is shipped via the Mississippi River Gulf Outlet; and

"Whereas, approximately four deep-draft vessels utilize the Mississippi River Gulf Outlet per day; and

"Whereas, annual dredging of the Mississippi River Gulf Outlet costs the state and federal governments millions of dollars each year: Therefore, be it

"*Resolved*, That the Legislature of Louisiana does hereby memorialize the Congress of the United States to authorize and direct the United States Army Corps of Engineers to evaluate the federal interest in continuing to operate and maintain the Mississippi River Gulf Outlet, and that such an evaluation shall include consideration of the social, economic, and environmental benefits and costs associated with continued operation and maintenance of the Mississippi River Gulf Outlet, including but not limited to consideration of the costs to the Nation and to Louisiana of the continued wetland losses resulting from bankline erosion and saltwater intrusion associated with the Mississippi River Gulf Outlet: Be it Further

"*Resolved*, That in the event that such evaluation demonstrates that no clear and overriding federal interest exists for continuing to operate and maintain the Mississippi River Gulf Outlet, the Legislature of Louisiana does hereby memorialize the Congress of the United States to authorize and direct the United States Army Corps of Engineers to develop and implement a plan to discontinue all operation and maintenance of the Mississippi River Gulf Outlet to deep-draft vessel traffic: Be it further

"*Resolved*, That in the event that such evaluation demonstrates a clear and overriding federal interest exists for continuing to operate and maintain the Mississippi River Gulf Outlet, the Legislature of Louisiana does hereby memorialize the Congress of the United States to authorize and direct the United States Army Corps of Engineers to develop and implement a plan to mitigate the adverse social, economic, and environmental impacts of the continued operation of the Mississippi River Gulf Outlet, as well as any adjacency lands, including but not limited to consideration of the construction of continuous sheet-pile bankline stabilization on both banks of the Mississippi River Gulf Outlet, and the construction of saltwater entrustion prevention structures in the vicinity of Bayou La Loutre and in other appropriate locations: Be it further

"*Resolved*, That a copy of this Resolution be transmitted to the United States Congress, and to the members of the Louisiana congressional delegation, the House Committee on Public Works and Transportation, and the Senate Committee on Environment and Public Works."

POM–440. A joint resolution adopted by the Legislature of the State of California favoring the enactment of federal legislation or regulations approving medicaid eligibility or otherwise eligible inmates in a county-operated detention or correctional facility; to the Committee on Finance.

"SENATE JOINT RESOLUTION NO. 22

"Whereas, California is experiencing steady growth in its incarcerated population; and

"Whereas, pregnant women, women with children, and minors comprise a significant portion of the incarcerated population; and

"Whereas, inmate health care costs are skyrocketing due to increased incidences of AIDS, substance abuse, and mental illness; and

"Whereas, in 1985, the federal government had a policy of providing medicaid for the first and last month of an inmate's incarceration; and

"Whereas, in 1985, the federal government reversed its policy and discontinued federal medicaid financial participation; and

"Whereas, currently, otherwise eligible persons are denied medicaid eligibility upon entering a county detention or correctional facility; and

"Whereas, counties must now fund inmate health care through county general fund moneys; and

"Whereas, these county general fund moneys could be used more effectively to provide other services, such as health care to the indigent; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation, or adopt regulations, approving medicaid eligibility for otherwise eligible inmates in a county-operated detention or correctional facility, or a county-operated juvenile facility; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Health and Human Services."

POM–441. A joint resolution adopted by the Legislature of the State of California favor-

ing the enactment of federal legislation or regulations permitting the certification of mobile prenatal health care van programs for reimbursement under the medicaid program; to the Committee on Finance.

"SENATE JOINT RESOLUTION NO. 4

"Whereas, California has been experiencing a brutal crisis in the access of indigent people to health care; and

"Whereas, preventive prenatal health care programs have been proven to be overwhelmingly cost-effective; and

"Whereas, low-income women often begin prenatal care late in their pregnancies or have too few visits, because of a lack of money, transportation, or child care, or because clinics are often not open at convenient times; and

"Whereas, at least one other state has addressed this problem by successfully implementing a prenatal health care program using mobile outreach units; and

"Whereas, at least one California hospital has proposed a similar program, which would utilize a mobile health van to provide prenatal care to the target population in an effective and efficient manner; and

"Whereas, since patients reached by such a program are usually Medi-Cal eligible, it is necessary that the program be approved for federal medicaid reimbursement by the Health Care Financing Administration; and

"Whereas, although the administration allows satellite clinics to be certified for medicaid reimbursement and although at least one mobile health care program has been approved for reimbursement, the federal government lacks clear statutory authority to certify those programs for medicaid reimbursement; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectively memorializes the President and Congress of the United States to enact legislation or require the Health Care Financing Administration to adopt regulations permitting the certification of mobile prenatal health care van programs for reimbursement under the medicaid program; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Director of the Health Care Financing Administration, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–442. A concurrent resolution adopted by the Legislature of the State of California favoring the enactment of federal legislation authorizing states and local governments to collect sales taxes on interstate sales transactions; to the Committee on Finance.

"SENATE CONCURRENT RESOLUTION NO. 71

"Whereas, approximately $600 million in local sales taxes and $2.4 billion in state sales taxes go uncollected each year as a result of the United States Supreme Court's decision in *Bellas Hess vs. Illinois Department of Revenue*; and

"Whereas, the recent United States Supreme Court's decision in *North Dakota vs. Quill Corporation* held that the Congress of the United States has the authority to authorize state and local governments to collect sales taxes from interstate sales transactions; and

"Whereas, if federal legislation authorizes state and local governments to collect sales taxes from interstate sales transactions is enacted, the estimated tax revenues for the state of Louisiana are $30.7 million for the state and $24.9 million for local governments within the state; and

"Whereas, passage of such legislation is of vital concern to local governments in Louisiana due to the loss of federal revenue sharing and budget cuts at the state level; and

"Whereas, Louisiana retailers are at a distinct competitive disadvantage regarding the out-of-state retailers' exemption from the payment of state and local taxes. Therefore, be it

"Resolved, That the Legislature of Louisiana hereby memorializes the Congress of the United States to enact legislation authorizing states and local governments to collect sales taxes on interstate sales transactions. Be it further

"Resolved, That a copy of this Resolution be transmitted to the Secretary of the United States Senate and the Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM–443. A joint resolution adopted by the Legislature of the State of California favoring the right of the State of Alaska in participating in any boundary negotiations involving its boundaries with the Soviet Union; to the Committee on Foreign Relations.

"SENATE JOINT RESOLUTION NO. 20

"Whereas, every state has a compelling constitutional interest in determining its own boundaries with other states and foreign countries; and

"Whereas, the State of Alaska's boundary with the Soviet Union has been the subject of negotiations between the United States government and the Soviet government since 1981; and

"Whereas, the State of Alaska has never been permitted to participate in the negotiations carried on by the Department of State; and

"Whereas, the Alaska Legislature has vigorously protested this exclusion in the form of Senate Joint Resolution 12, which was passed unanimously by both houses and signed by Governor Steve Cowper in May 1988; and

"Whereas, the Department of State ignored these protests, and its negotiations have resulted in a proposed treaty titled 'Agreement with the Union of Soviet Socialist Republics on the Maritime Boundary,' which is now before the United States Senate for ratification; and

"Whereas, the California Legislature previously expressed its support for the State of Alaska for its right to participate in any negotiations affecting its boundaries in the form of Resolution Chapter 122 of the Statutes of 1987; and

"Whereas, it is settled procedure with respect to negotiations of state boundaries that representatives of any affected state not only must be included in the negotiations, but also must consent to the terms of the proposed boundary treaty (such as was the case when Secretary of State Daniel Webster negotiated with Great Britain over the boundary between Canada and the State of Maine in 1842); now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the California Legislature renews its support for the State of Alaska in its rightful position of participation in any boundary negotiations involving its boundaries with the Soviet Union; and be it further

"Resolved, That the California Legislature (1) respectfully memorializes the President of the United States to withdraw the proposed treaty from consideration by the United States Senate and (2) requests the California United States Senators to decline to consider the proposed treaty, until such time as the State of Alaska has been able to participate fully in negotiations and has been guaranteed that its consent will be required for any agreement affecting its boundaries; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Governor of Alaska, to the President of the Alaska Senate, and to the Speaker of the Alaska House of Representatives."

POM–444. A joint resolution adopted by the Legislature of the State of California favoring investigations into the conditions affecting the Assyrian/Chaldean people and to report their findings; to the Committee on Foreign Relations.

"SENATE JOINT RESOLUTION NO. 35

"Whereas, the Assyrian/Chaldean people have a long and distinguished history, going back more than two millennia; and

"Whereas, the Assyrian/Chaldean people originated in the area of the Middle East generally considered the cradle of civilization, between the Tigris and Euphrates Rivers; and

"Whereas, many Assyrian/Chaldean are now living as ethnic minorities scattered throughout the Middle East and in refugee camps in northern Iraq and surrounding countries; and

"Whereas, there are as many as 70,000 Californians of Assyrian/Chaldean extraction, with approximately half of this number living in the San Francisco Bay area, 15,000 in the central valley, and a significant number in San Diego and Los Angeles; and

"Whereas, there has been until recently no central organization that has as its sole purpose the provision of relief, assistance, and aid to the Assyrian/Chaldean people; and

"Whereas, the Assyrian/Chaldean Life Line has been formed by patriotic Americans of Assyrian/Chaldean descent to provide urgently needed relief, assistance, and aid to the Assyrian/Chaldean people; and

"Whereas, the Assyrian/Chaldean Life Line is a totally volunteer organization that accepts only private nongovernmental support; and

"Whereas, the efforts of the Assyrian/Chaldean Life Line are in the finest tradition of human endeavor; and

"Whereas, the California Legislature applauds and commends the efforts of the Assyrian/Chaldean Life Line in providing relief, assistance, and aid to the Assyrian/Chaldean people: Now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to use their best efforts through the United Nations and other international agencies to look into the conditions affecting the Assyrian/Chaldean people and to report their findings so that the appropriate relief and aid might be organized to assist this ancient people whose history, arts, and sciences have literally filled the museums of the world: and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United

States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-445. A joint resolution adopted by the Legislature of the State of California urging the Department of State to seek the cooperation of Syria and Iran in compelling the organizations holding the seven Israeli POW's referred to in this resolution to grant immediate access to the POW's to the International Red Cross and to provide the POW's with all conditions required by the Geneva Convention; to the Committee on Foreign Relations.

"SENATE JOINT RESOLUTION NO. 19

"Whereas, seven soldiers of the Israel Defense Forces have been missing in action for several years in Lebanon: Yehuda Katz, Zechariah Baumel, and Tevi Feldman have been missing since 1982; Samir Assad has been missing since 1983; and Ron Arad, Yosef Pink, and Rachamim Levi-Alsheech have been missing since 1986; and

"Whereas, all evidence points to their being held in territory controlled by the Syrians by organizations linked with Syria and Iran; and

"Whereas, these Israeli POW's are being held incommunicado, and are deprived of all basic rights, such as contacts with their families and meetings with the International Red Cross—and this treatment constitutes a blatant violation of the Geneva Convention and a cruel disregard for the ordeal of their families and loved ones; and

"Whereas, Syria, Iran, and the organizations holding the Israeli POW's have refused to acknowledge responsibility for the fate of the POW's and have further refused to divulge any information as to the location or welfare of these individuals; and

"Whereas, POW's are now being exchanged following the Persian Gulf War, and it is important that the Israeli POW's not be forgotten; and

"Whereas, discussions have resumed regarding the exchange of prisoners and western hostages; and

"Whereas, recent developments indicate that the region is moving toward peace talks on the Israeli-Arab conflict: Now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California hereby urges the United States Department of State to seek the cooperation of Syria and Iran in compelling the organizations holding the seven Israeli POW's referred to in this resolution to do both of the following as a first step towards a prisoner exchange in the very near future:

"(1) To grant immediate access to the seven Israeli POW's to the International Red Cross.

"(2) To provide the seven Israeli POW's with all conditions required by the Geneva Convention; and be it further

"Resolved, That the Legislature also urges the Department of State to work with other western nations, and with middle eastern nations desirous of stability in the region, to support all efforts to secure the rights of the seven Israeli POW's referred to in this resolution—efforts which should include a full disclosure of all information relating to their welfare and to the conditions of their imprisonment and the ultimate release of the Israeli POW's as part of a general prisoner exchange; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President, the Vice President, and the Secretary of State of the United States, to the Speaker of the House of Representatives of the United States, and to each Senator and Representative from California in the Congress of the United States."

POM-446. A concurrent resolution adopted by the Legislature of the State of Louisiana favoring adequate fire protection in the form of fire sprinkler systems be a part of all high-rise buildings owned or used by the United States government; to the Committee on Governmental Affairs.

"HOUSE CONCURRENT RESOLUTION NO. 22

"Whereas, Congress and the President of the United States have taken a leadership role in supporting fire protection in high-rise hotels and motels through the passage of H.R. 94, the Hotel and Motel Fire Safety Act of 1990; and

"Whereas, fighting fires in high-rise buildings is extremely dangerous and extinguishing them is often impossible with conventional fire-fighting apparatus and personnel; and

"Whereas, in addition to the hundreds of millions of dollars in property lost, these recent incidents vividly demonstrate the tragic results of high-rise fires:

"Philadelphia—Office Building—three firefighters died; and

"Los Angeles—Interstate Bank Building—one occupant died, 35 occupants and 14 firefighters injured; and

"Atlanta—Peachtree 25th Building—six occupants died; and

"San Juan—Dupont Plaza—96 occupants died; and

"Las Vegas—MGM Grand—85 occupants died; and

"Whereas, the technology exists to safely, efficiently and effectively control and extinguish fires with fire sprinkler systems in place; and

"Whereas, in addition to the direct loss of property and lives, the cost to communities in terms of lost jobs, business interruption, and tax revenue loss can be significant: Therefore, be it

"Resolved, That the Legislature of Louisiana does hereby memorialize the Congress of the United States and in particular the members of the Louisiana congressional delegation to ensure that adequate fire protection in the form of fire sprinkler systems be a part of all high-rise buildings owned or used by the United States Government: Be it further

"Resolved, That certified copies of this Resolution shall be forwarded to the secretary of the Senate and the clerk of the House of Representatives of the Congress of the United States, and to each member of the Louisiana congressional delegation."

POM-447. A joint resolution adopted by the Legislature of the State of California favoring equal treatment of all Americans, regardless of race, ethnicity, or religion and opposing any form of physical or emotional harassment of Arab American and other groups; to the Committee on the Judiciary.

"SENATE JOINT RESOLUTION NO. 13

"Whereas, the United States, in conjunction with Arab and European allies, unleashed a massive bombing attack on Iraqi armed forces in Iraq and occupied Kuwait on January 16, 1991; and

"Whereas, thousands of Americans of Arab descent live in the United States as American citizens; and

"Whereas, many Iraqi Americans now residing in the United States fled the brutality and persecution instigated by the Hussein regime; and

"Whereas, many Americans of Arab descent have fought in the United States armed forces against Iraq; and

"Whereas, hate crimes and other forms of physical harassment of Arab Americans have increased at an alarming rate since the beginning of the Iraq-Kuwait Crisis; and

"Whereas, in response to increased concerns about terrorism in the United States, the Federal Bureau of Investigation has reportedly conducted "interviews" and investigations in the Arab-American community based on the ethnicity or national origin of Arab Americans and without reasonable cause; and

"Whereas, the activities of the Federal Bureau of Investigation have unfairly aroused suspicion of Arab Americans and encouraged hate crimes against Arab Americans; and

"Whereas, the Congress of the United States is considering passage of House Concurrent Resolution 56, which expresses the sense of Congress that federal agencies should not engage in discrimination that threatens the civil liberties of Arab Americans and should assist in protecting Arab Americans from hate crimes and related discrimination.

"Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California supports equal treatment of all Americans, regardless of race, ethnicity, or religion; and be it further

"Resolved, That this Legislature condemns any form of physical or emotional harassment of Arab Americans and other groups; and be it further

"Resolved, That federal agencies should assist in protecting Arab Americans from hate crimes and related discrimination; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to pass House Concurrent Resolution 56; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-448. A resolution adopted by the General Assembly of the State of New Jersey favoring the United States Attorney General to vigorously pursue possible civil rights violations in the beating of Rodney G. King in Los Angeles and to investigate any possible irregularities in the jury deliberations that resulted in a not guilty verdict for the police officers accused of his beating; to the Committee on the Judiciary.

"ASSEMBLY RESOLUTION NO. 70

"Whereas, the recent jury verdict to acquit four Los Angeles police officers in the beating of Rodney G. King has generated intense public outcry and frustration, which tragically manifested itself in civil unrest in Los Angeles, California and in other parts of the country; and

"Whereas, in a recent Newsweek poll conducted by the Gallup Organization, a large majority of Americans disagree with the acquittal of the police officers; and

"Whereas, this questionable verdict may seriously undermine the sense of faith and respect many Americans have in the system of justice in the United States; and

"Whereas, the United States Attorney General and the federal grand jury should

pursue vigorously their responsibility to determine whether civil rights laws were violated in the beating of Rodney G. King; and

"Whereas, such steps will hopefully reinforce for the nation and for the people of Los Angeles our society's commitment to civil rights and its intolerance for any type of violence which violates those civil rights; and

"Whereas, such efforts would strengthen the faith Americans have in the system of justice in the United States, which has been undermined by the proceedings of this case; and

"Whereas, New Jersey should feel pride that while its citizens were equally outraged by the decision in the Rodney G. King case, the public's reaction, while freely expressed, has been measured and focused; and

"Whereas, in many respects, this peaceful protest can be traced to the sense of communication and cooperation that exists between New Jersey's civic, religious, and community leaders and the people of our great State: Now therefore, be it

"Resolved by the General Assembly of the State of New Jersey:

"1. This House respectfully memorializes the President of the United States, the Congress, and the United States Attorney General to vigorously pursue possible civil rights violations in the beating of Rodney G. King in Los Angeles and calls upon the United States Attorney General to investigate any possible irregularities in the jury deliberations that resulted in a not guilty verdict for the police officers accused of his beating.

"2. This House urges the citizens and residents of this State and Nation to show restraint in these difficult times and urges all Americans to recommit themselves to eliminating poverty, racism, ignorance, injustice, and all other barriers between people.

"3. Duly authenticated copies of this resolution shall be transmitted to the President of the United States, the presiding officers of the United States Senate and House of Representatives, to every Member of Congress elected from the State of New Jersey, and to the United States Attorney General.

"STATEMENT

"This resolution memorializes the President of the United States, the Congress, and the United States Attorney General to vigorously pursue possible civil rights violations in the beating of Rodney G. King in Los Angeles and calls upon the United States Attorney General to investigate any possible irregularities in the jury deliberations that resulted in a not guilty verdict for the police officers accused of his beating. Such an action will reinforce for the Nation and for the people of Los Angeles our society's commitment to civil rights and its intolerance for any type of violence which violates those civil rights. It will also strengthen the faith Americans have for the system of justice in the United States, which has been undermined by the proceedings of this case. The resolution also singles out the cooperation and communication that exists between New Jersey's civic, religious, and community leaders and the citizens of the State as a major factor in the measured, focused and freely expressed protests in New Jersey.

"Memorializes the President of the United States, the Congress, and the United States Attorney General to vigorously pursue possible civil rights violations in the beating of Rodney G. King in Los Angeles."

"SENATE JOINT RESOLUTION NO. 25

"Whereas, it is the intent of the Legislature to support and enhance the opportunity and ability of all persons with disabilities who reside within California to lead productive, independent, personally empowered, and contributing lives; and

"Whereas, the Department of Rehabilitation provides a specialized constellation of case management, counseling, and the purchase of goods and services and provides a variety of assistance to persons with disabilities who have independent living, employment, and employability needs; and

"Whereas, this vocational rehabilitation system was originated and defined in 1920 by federal law whose current form and funding is embodied in the federal Rehabilitation Act of 1973, the intent of which is to promote more independent and productive lives for persons with disabilities; and

"Whereas, efforts to review and reform this original purpose have only led to minor changes in the service approach, philosophy, and funding patterns, despite evidence which indicates not only that persons with severe disabilities continue to experience 74 to 86 percent unemployment, major underemployment due to segregation and low expectations, and increasing waiting lists for services, but also that disabled youth and older persons are extremely underserved; and

"Whereas, with passage of the Americans with Disabilities Act of 1990, which sets forth a sweeping new and systematic declaration of human and civil rights for people with disabilities based on contemporary congressional findings and the assertion of cultural and societal values, dramatic increases in full participation and economic integration of all persons with disabilities will occur in America; and

"Whereas, No substantial effort has been exerted to look at the many areas of potential system improvements and economies that coexist between the public rehabilitation system, unemployment insurance, and workers' compensation in California that would lead to major benefits to the California economy; and

"Whereas, A revolution in technology, science, and support services exists that offers to expand the benefits to consumers of services and the public and private employer sector in California; and

"Whereas, Research from the last decade and the summing up of the best clinical and program practices has not been applied to the service delivery system in order to improve quality and economies to the consumer and tax paying public; and

"Whereas, The federal Rehabilitation Act of 1973, will be reauthorized by Congress by September 1991; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California urges the California Congressional Delegation to support a two-year reauthorization process of the federal Rehabilitation Act of 1973 that will provide widespread local hearings to ensure maximum public input to focus on establishing a paradigm shift in the rehabilitation system service design in keeping with the spirit and letter of the Americans with Disabilities Act; and be it further

"Resolved, That the Legislature commission a study to be completed not later than September 1, 1993, and to be coordinated by the Senate Office of Research in consultation with the Department of Rehabilitation, which parallels the congressional reauthorization timetable that will provide the Legislature with recommendations on the administrative, programmatic, and fiscal reorganization of the Department of Rehabilitation that will do all of the following:

"(a) Research and analyze cost-benefit data that currently exists.

"(b) Define performance standards and outcome measures for services to persons with disabilities.

"(c) Compare state-of-the-art service models and approaches to maximize the benefits and utilization of these best practices in serving people with disabilities.

"(d) Recommend appropriate levels of funding needed to meet the needs of disabled persons in service modes that are congruent with the modern mission of the department.

"(e) Install patterns of spending and utilization of federal funds that promote maximum success in achieving personal empowerment and productive independent living, including voucher systems and the creative mixing and matching of public and private funds.

"(f) Install service models that maximize economies consistent with the values, goals, and objectives of career-oriented support services and assessment approaches; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-450. A joint resolution adopted by the Legislature of the State of California opposing the United States Supreme Court ruling in the case of Rust v. Sullivan upholding the regulations prohibiting health care professionals from counseling their patients on, or providing referrals for, abortion, and for other purposes; to the Committee on Labor and Human Resources.

"SENATE JOINT RESOLUTION NO. 27

"Whereas, family planning clinics provide important access to health services for California's economically disadvantaged women; and

"Whereas, Federal Title X funds provide $12.2 million to California, financial assistance critical to over 200 family planning facilities statewide; and

"Whereas, the majority of women served by family planning clinics receiving Title X funding have no other alternatives for health care; and

"Whereas, California's family planning clinics are already experiencing significant financial stress as the result of below average reimbursement rates for services provided; and

"Whereas, California's law on "informed consent" requires physicians to advise their patients of all risks, benefits, and alternatives on any medical procedure, and any limits on informed consent would represent a violation of California law; and

"Whereas, California's physicians have a professional obligation to inform their patients of all their treatment alternatives, and any limits on this obligation would jeopardize the patient-physician relationship; and

"Whereas, the United States Supreme Court ruling of May 23, 1991, in the case of Rust v. Sullivan, upholds regulations adopted by the Secretary of Health and Human Services which prohibit family planning programs that receive Title X funds from providing abortion counseling or referral services to women; and

"Whereas, the people of California believe that the regulations adopted by the Secretary of Health and Human Services violate the fundamental rights to privacy and free speech, despite the United States Supreme Court's holding; and

"Whereas, family planning providers might be forced out of moral obligation, the exercise of their right to free speech, and their adherence to California's law on informed consent, to turn down federal Title X funding, thereby reducing the number of women served or closing family planning facilities; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California expresses its deep concern over the United States Supreme Court ruling in the case of Rust v. Sullivan upholding the regulations prohibiting health care professionals from counseling their patients on, or providing referrals for, abortion, and strongly supports federal legislation clarifying original congressional intent that Title X funding be used to provide unbiased and accurate information on reproductive health care for economically disadvantaged women; and be it further

"Resolved, That the Legislature of the State of California strongly urges that the United States Congress enact clarifying legislation and the President of the United States sign the legislation into law; and be it further

"Resolved, That the Legislature of the State of California registers its alarm that the United States Supreme Court ruling undermines a woman's fundamental right to privacy, including her right to choose an abortion; and be it further

"Resolved, That the Legislature of the State of California reaffirms its support for protection of these rights for all women, including economically disadvantaged women; and be it further

"Resolved, That the Legislature of the State of California expresses its serious concern that the United States Supreme Court ruling limits the First Amendment rights of free speech of health care professionals; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the President pro tempore of the United States Senate, to each Senator and Representative from California in the Congress of the United States, to the Chief Clerk of the United States House of Representatives, to the Secretary of the United States Senate, and to the presiding officer of each house of the legislature of each of the other states in the Union".

POM-451. A concurrent resolution adopted by the Legislature of the State of Michigan favoring the enactment of federal legislation establishing a national registry of persons convicted of child abuse crimes for the purpose of making background checks; to the Committee on Labor and Human Resources.

"HOUSE CONCURRENT RESOLUTION NO. 541

"Whereas, over 2.5 million reports of child abuse and neglect are made each year in the United States. Law enforcement officials suspect an indeterminate number of other incidents go unreported; and

"Whereas, it has been established that one in every three girls and one of every six boys will have been sexually abused before the age of eighteen. Moreover, over half of sexually abused children are victimized before they reach the age of seven; and

"Whereas, from 1989 to 1990, arrests for offenses against children grew faster than any other crime nationally. In addition, most child molesters are repeat offenders. According to the National Institute of Mental Health, the typical attacker of young boys molests an average of 281 youngsters; and

"Whereas, the time for establishing a national registry of persons convicted of child abuse crimes for the purpose of making background checks on individuals applying for jobs dealing with children has come. States that have established their own individual reporting systems have discovered over 6,000 individuals who had been convicted of serious criminal child abuse offenses; now, therefore, be it

"Resolved by the House of Representatives (the Senate concurring), That we hereby memorialize the United States Congress to enact legislation establishing a national registry of persons convicted of child abuse crimes for the purpose of making background checks; and be it further

"Resolved, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the Michigan congressional delegation."

POM-452. A concurrent resolution adopted by the Legislature of the Commonwealth of Pennsylvania favoring the restoration of funds for State grants; to the Committee on Labor and Human Resources.

"S. CON. RES. NO. 142

"Whereas, section 2 of the Federal Mine Safety and Health Act of 1977 states "the first priority and concern of all in the coal or other mining industry must be the health and safety of its most precious resource—the miner"; and

"Whereas, section 2 of the act states one of the purposes of the act is "to cooperate with, and provide assistance to, the States in the development and enforcement of effective State coal or other mine health and safety programs"; and

"Whereas, there has been a reduction in accidents, suffering and loss of life since the passage of the act; and

"Whereas, Pennsylvania has had no mining fatalities in 1991; and

"Whereas, the President's 1992-1993 fiscal year budget for the Mine Safety and Health Administration was submitted to Congress without a request for State grants under the act; and

"Whereas, the requirements under the act remain; and

"Whereas, lack of funding will weaken the purposes of the act; and

"Whereas, the progress made over the past 15 years will come to a halt, the accident rate will climb, miners will die from accidents or suffer long-term illness from the effects of black lung, silicosis and other diseases; Therefore be it

"Resolved (the House concurring), That the General Assembly of the Commonwealth of Pennsylvania memorialize Congress to restore funds for State grants under the Federal Mine Safety and Health Act of 1977; and be it further

"Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania."

POM-453. A resolution adopted by the General Assembly of the State of New Jersey favoring certain private interests be permitted to construct, at no cost to the taxpayer, a modest memorial to the patriot Thomas Paine at a fitting location on the grounds of the U.S. Capitol Building; to the Committee on Rules and Administration.

"ASSEMBLY RESOLUTION NO. 66

"Whereas, the great American patriot Thomas Paine emigrated from his native England at the urging of Benjamin Franklin and lived in Pennsylvania and New York; and

"Whereas, Thomas Paine authored the American Crisis Pamphlets and the work called Common Sense, which was published in 1776 and called for American independence and limits on a government's authority, received wide public distribution at the time and helped to galvanize colonial discontent into action against Great Britain; and

"Whereas, the ideas expressed by Paine in these and other works were incorporated in the Declaration of Independence, and subsequently, the United States Constitution; and

"Whereas, Paine made the first published call for a written constitution to protect the rights of property owners and for the free exercise of religious beliefs; and

"Whereas, Paine donated his services and finances to the cause of American Independence and put his life in jeopardy for this cause; and

"Whereas, Paine is rightly honored in New Jersey, France and England for his advocacy of the causes of personal liberty, limited government and industry; and

"Whereas, it is fitting and proper that a permanent national monument be constructed in Thomas Paine's honor near the seat of the government he helped to create: Now, therefore, be it

"Resolved by the General Assembly of the State of New Jersey:

"1. This House calls on the Congress of the United States to allow certain private interests to construct, at no cost to the taxpayer, a modest memorial to the patriot Thomas Paine at a fitting location on the grounds of the U.S. Capitol Building.

"2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be sent to the presiding officers of each House of Congress and each member of Congress from New Jersey."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1569. A bill to implement the recommendations of the Federal Courts Study Committee, and for other purposes (Rept. No. 102-342).

By Mr. MITCHELL (for Mr. INOUYE), from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2044. A bill to assist Native Americans in assuring the survival and continuing vitality of their languages (Rept. No. 102-343).

By Mr. JOHNSTON, from the Committee on Appropriations, with amendments:

H.R. 5373. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102-344).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BENTSEN:

S. 3078. A bill to promote the conduct of biomedical research in space; to the Committee on Commerce, Science, and Transportation.

By Mr. CONRAD:

S. 3079. A bill to require that an annual Federal financial report be submitted to American citizens; to the Committee on Governmental Affairs.

By Mr. PRYOR (for himself, Mr. BOREN, and Mr. PACKWOOD):

S. 3080. A bill to amend the Internal Revenue Code of 1986 to restore the exclusion from gross income for income from discharge of qualified real property business indebtness; to the Committee on Finance.

By Mr. RIEGLE:

S. 3081. A bill to change the tariff classification for light trucks; to the Committee on Finance.

By Mr. SIMPSON:

S. 3082. A bill to amend the Internal Revenue Code of 1986 to allow a waiver of the 3-year limitation on claiming a credit or refund; to the Committee on Finance.

By Mr. WARNER (for himself and Mr. ROBB):

S. 3083. A bill to transfer title to certain lands in Shenandoah National Park in the State of Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. COCHRAN (for himself, Mr. BOND, Mr. BOREN, Mr. BURDICK, Mr. COHEN, Mr. CONRAD, Mr. D'AMATO, Mr. DECONCINI, Mr. DOLE, Mr. GARN, Mr. GLENN, Mr. HATCH, Mr. HOLLINGS, Mr. MCCAIN, Mr. MCCONNELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. ROTH, Mr. SMITH, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, and Mr. WELLSTONE):

S.J. Res. 328. A joint resolution to acknowledge the sacrifices that military families have made on behalf of the Nation and to designate November 23, 1992, as "National Military Families Recognition Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN:

S. 3078. A bill to promote the conduct of biomedical research in space; to the Committee on Commerce, Science, and Transportation.

BIOMEDICAL RESEARCH IN SPACE ACT

• Mr. BENTSEN. The purpose of this bill is to enhance cooperation on biomedical research between NASA and NIH, with a specific emphasis on expanding space-based research pertinent to solving medical challenges here on Earth. The bill is identical to H.R. 3922, introduced by Representative RALPH HALL, chairman of the House Subcommittee on Space. The bill is supported by both NASA and NIH as well as the broader aerospace medical community.

Since the beginning of the American space program, most biomedical research in space has focused on understanding the biological responses of astronauts to weightlessness and other conditions of spaceflight. Additionally, opportunities to conduct space-based biomedical research have been constrained by the limited availability in space of the space shuttle and the shuttle-based spacelab.

Biomedical research in space can and ought to be helping terrestrials as well as astronauts. Such research contains great potential to increase understanding of the cardiovascular system, cellular behavior, the behavior of the immune system, and such conditions as osteoporosis and arthritis. Nowhere but in space can the weightlessness essential to this research be found, and not until we have constructed a permanent station in space can such research achieve its full potential.

An excellent example of that potential is skin cancer research. The rapid depletion of the ozone layer has led to a dramatic increase in the rate of skin cancer, including the more deadly melanomas. From space, however, we can not only monitor the ozone layer in a manner we cannot here on Earth, we can also conduct experiments predictive of the amount of ultra-violent radiation that will be reaching the Earth in the future. Such experiments are simply too complicated to duplicate in a laboratory. In short, space offers us the twin opportunity to monitor the principal cause of skin cancer and to develop better ways of treating it.

In 1988 NASA and NIH signed a memorandum of understanding to foster a cooperative program between the two agencies aimed at enhancing the biomedical research capabilities of both. An interagency working group was set up, and conferences have been held among experts from both agencies. Nevertheless, NASA's understandable focus on spaceflight-related biomedical research continues to predominate over NIH's equally understandable focus on terrestrial medical problems.

I am convinced that medical research in space may hold the key to overcoming some important medical problems here on Earth. This bill is designed to further progress toward that end. Specifically, the bill would authorize the establishment of a joint NASA–NIH working group that will focus on the terrestrial applications of space-based biomedical research. The bill also would establish a program of joint, peer-reviewed biomedical research grants to be administered by NASA and NIH. The bill would further direct the NASA Administrator to establish and submit to Congress a plan for the conduct of joint space-based biomedical research with the republics of the former Soviet Union, including use of the Mir space station. The biomedical research capabilities on Mir are a far cry from those planned for space station *Freedom*, but they nonetheless could enhance near-term biomedical research progress.

Other features of the bill include establishment of an electronic data archive for biomedical research data obtained from space-based experiments and the establishment of an emergency medical service telemedicine capability. The latter involves creation of an international telemedicine consultation capability to support the provision of medical services in disaster-stricken areas—very much like the one temporarily set up after the Armenian earthquake of 1989.

Mr. President, in addition to enhancing space-based biomedical research's contribution to countering medical ills here on Earth, this bill has another very attractive feature: its modest price tag of $26,250,000 through the end of fiscal year 1994 is to be financed entirely out of money already authorized for NASA and NIH. No new money is needed or requested. Moreover, I know of no opposition to the bill. It is supported by NASA and NIH, as well as by such physicians and scientific organizations as Dr. Michael E. DeBakey, Dr. Charles A. LeMaistre, Dr. Richard E. Wainerdi, Dr. J. Alan Herd, the Aerospace Medical Association, and the American Astronautical Society.

The bill, in short, is a good buy for both American medicine and the American people.•

By Mr. CONRAD:

S. 3079. A bill to require that an annual Federal financial report be submitted to American citizens; to the Committee on Governmental.

ACT FOR AN ANNUAL REPORT FOR THE AMERICAN CITIZEN

Mr. CONRAD. Mr. President, I rise today to introduce the Act For an Annual Report for the American Citizens, which would require that an annual report of the financial condition of the Government be made available to all Americans.

Mr. President, this country is in trouble. We are deep in debt. We keep adding to that debt every year. Yet, we do not take the basic step of providing information on the financial condition of the country directly to the taxpayers of this country, directly to the people who vote in our elections to determine the future course and direction of our Nation.

Mr. President, this legislation would make Government more accountable to the people by making Government more businesslike. We often hear those words from our constituents, that Government should be more businesslike. Well, this legislation addresses a basic area where Government does not compare to business.

If you are a shareholder in a corporation in this country, Mr. President, you are considered a part owner and are afforded certain rights and privileges. As one of those rights, you are provided with an annual financial report on the performance of the company. Provision of that annual report to the stockholders is considered fundamental to the participation of the shareholders in the company's operation.

In a democratic society, all of our citizens are considered part owners of our Government. Our citizens are our

shareholders in this Government. Yet, our citizens are not provided with an annual report on the actual performance of the Federal Government. True, there is no shortage of media reports on budget battles and summit deals between Congress and the administration, but the news stories very frequently do not tell the full story.

For 5 years, starting in 1987, budgets have been submitted under Gramm-Rudman deficit targets. The President would submit his budget and Congress would pass a budget resolution that would be in line with the annual target. But every year, the actual deficit for the year has turned out to be worse than the target set at the beginning of the year in the budgets.

In fact, over the past 5 years, from fiscal year 1987 to fiscal year 1991, the cumulative difference between the deficit estimate in the annual budget and the actual annual deficit totals over $410 billion; a $410 billion difference between what Congress was told was going to happen and what actually occurred.

Mr. President, in fact, for the most recent year alone, fiscal year 1991, the difference between the budgeted deficit and the actual deficit was a staggering $205 billion. Now the Office of Management and Budget tells us in its midsession estimate that the cumulative deficit for the current fiscal year through 1996 will be a shocking $1.38 trillion, missing the mark set in the original fiscal year 1992 budget by a staggering 160 percent. But adding to the concern of the public is the fact that the latest budget contains not one shred of evidence that the Federal budget will be in balance at any time in the future.

Washington has thrown in the towel in balancing the Federal budget. Mr. President, to be precise, this administration that presents the budget to Congress has thrown in the towel on doing anything about the growth in the Federal debt and doing everything about these ongoing Federal budget deficits. We hear the administration say they have a plan up here, a 5-year plan to do something about the Federal budget deficit, and indeed they do. They have a plan that will increase the national debt by this staggering sum of well over $1 trillion.

If the track record in recent years is any guide, the actual deficits in the coming years will be much worse than these current estimates. There is no question that the public is dissatisfied with the job the administration and Congress are doing in dealing with the deficit problem. In addition, the public continues to perceive that a significant amount of Government money is simply wasted through fraud and abuse. The continuing inability to deal with these problems is pushing us closer and closer to a crisis of confidence.

The public does not know how much its Government actually spends, or on what.

Mr. President, when I go back to my constituency and hold community forums, over and over people ask me for the basic information about how the Federal Government is spending its money. How big is the deficit? What is the outlook for the coming year? How is the money being spent? Where is it going? How much is going for defense? How much is going for welfare? How much is going for agriculture? How much is going for foreign assistance?

These are basic questions, and the taxpayers of this country deserve answers. They are not going to get it from the daily news media. There is no way that television is going to provide the kind of report that is needed by the American people to understand what is happening and why with respect to our national economic condition.

The people deserve to have some way of understanding precisely what is occurring and what are its implications. What difference does it make if we run up a $4 trillion national debt, which is where we are as we meet here today?

What difference does it make? What are the implications? What does it mean for the future strength of our economy? What does it mean for the future size of our economy? What does it mean for the incomes of American families?

Those are the important issues that need to be addressed, and one wonders how are they going to be addressed if the people that have to make the decisions in this democratic society do not have the basic information necessary upon which to make those decisions.

They are not going to get it on television. Rarely are they going to get it in the newspapers. Oh, yes; they will see reports that the deficit this year is going to be approximately $400 billion, and perhaps if they read carefully and closely, they will find out that the debt is now $4 trillion. And if we are not careful, it will be added to by approximately 50 percent over the next 5 years. But, Mr. President, that information is not presented in a way that is clear and concise and available to all the decisionmakers in this society, the voters of our country.

That is why the legislation that I introduce today moves to change that. The bill is straightforward and concise. It directs the Chief Financial Officer and the staff of the Treasury Department to prepare an annual report at the close of each fiscal year. The report would be readily available to all households through a request designation box on the individual income tax forms.

If the people do not want this information, there is no reason to send it to them. But if they are interested in the financial condition of their country, it should be available to them.

The report is to contain the basic information that any financial report would contain: An income statement, a balance sheet, information on special funds, a review of trends in revenues and expenditures, and a comparison of actual results to the forecasted amount for the most recent fiscal year.

Let us hold up the Office of Management and Budget to accountability. Let us hold the administration up to accountability. Let us let the American people see what was predicted and what is actually occurring.

The report would also contain short statements from the President, Senate and House leaders, as well as summary statements from the Chief Financial Officer and the Comptroller General.

Outside of these core requirements, Mr. President, the legislation would call on the Chief Financial Officer to oversee the preparation of the report. In addition, the legislation provides authority for the establishment of a citizens advisory group to ensure that the design of the report is most informative for the citizen users.

The cost of providing the annual report would be relatively small. The Department of Treasury Financial Management Service already has the staff and budget in place to prepare the Government's financial reports. But additional funds would be required for printing and mailing copies to the households requesting the report. The total cost, if all households were to receive the annual report, would not be over $30 million, a small price to pay for an informed citizenry.

To help defray the printing and distribution costs, the legislation establishes the authority for the receipt of contributions from corporations, foundations, and other private entities that would be willing to support this effort.

An objective of this bill is to bring clarity to a fiscal situation that to most people must appear very murky. Yet, it is widely recognized that the Government's accounting systems are a mess, and are only slowly getting better. It is now costing the Federal Government over $2 billion a year to make necessary improvements to its financial systems.

Last year, the Office of Management and Budget reported that in the early 1980's, "The Government had over 500 financial systems, many of them antiquated, incompatible, or redundant, and many not in compliance with applicable accounting standards."

Mr. President, likewise, the General Accounting Office has been very critical that there is not enough coordination and focus between the agencies on Federal accounting efforts.

The 1990 Chief Financial Officers Act took a very positive step toward bringing coordination to Federal accounting. But it does fall short. It does not require a governmentwide, consolidated financial statement by a date

certain. This legislation would complement the Chief Financial Officers Act. The legislation that I introduced today provides the crucial incentive to the agencies and the chief financial officer to get the job done right, and get it done now. It sends the bureaucracy the message that the public deserves and will get good financial information on the fiscal conditions facing this Nation.

In the face of declining participation of the public in the electoral process, providing something so basic as an annual report would be a very positive action.

While the bureaucracy is given the message that it is past time to get its financial house in order, the report would serve as a reminder to the public that this Government exists for them; that we all share a part in finding solutions to these fiscal problems that our Government lives under.

Our great Nation was built by our Founding Fathers on a basis of democracy and public participation. Publication and broad distribution of an annual report on the finances of our Government are in keeping with those high ideals.

Mr. President, we face some very difficult challenges in the days ahead. We have now had a Presidential candidate remove himself from the race. But also, as he removed himself, he came out with a financial plan to get this Nation's fiscal house in order. The magnitude of that plan tells us something about how deep our financial problems are.

The plan that was advanced by Mr. Perot requires a reduction in the deficit of some $700 billion over the next 5 years. At the same time, we have seen the unveiling of a plan by the chairman of the House Budget Committee, Mr. PANETTA. His plan, too, calls for a reduction in the deficit over 5 years of some $700 billion.

Mr. President, that is not going to be easy to accomplish. It is going to require shared sacrifice. If the American people are going to be persuaded that shared sacrifice is really necessary, they are going to have to have available to them the basic information that leads a person to that conclusion.

Mr. President, they do not have that information today. I would say to my colleagues that if the American people had that basic information, if they saw what it means if we stay on the current course, that they would be more willing to change that course.

For those reasons, Mr. President, I believe this legislation is important.

I now ask unanimous consent, Mr. President, that the text of the bill be printed in the RECORD following these remarks.

There being no objection, the bill ordered to be printed in the RECORD, as follows:

S. 3079

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Act for an Annual Report for the American Citizens".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress makes the following findings:

(1) Through our system of democracy and public funding of the Government, all citizens share an interest in the financial well-being of our Federal Government. Accurate, consistent, and broadly distributed reporting on the Nation's finances are central to the conduct of democracy.

(2) Recent Federal budget deficits have resulted in more than a tripling of the Federal debt. With prospects for enormous Federal budget deficits for the next several years, the debt is a burden that affects the present and future generations of Americans.

(3) The actual financial performance of the Federal Government often differs from the budget by tens, even hundreds, of billions of dollars. For example, the fiscal year 1991 budget was to result in a deficit of $63,000,000,000. Instead, the actual deficit for the year was $268,700,000,000.

(4) Billions of dollars are currently being spent to make changes in existing accounting systems in Federal agencies, but without adequate coordination and direction.

(5) The Federal Government continues to lose billions of dollars each year through fraud, waste, abuse, and mismanagement. Standardized reporting to the public is essential to the improvement of accountability of public programs.

(6) The growing Federal debt is hindering economic growth and competitiveness, and ultimately, reduces the standard of living of all Americans.

(b) PURPOSE.—The purpose of this Act is to—

(1) increase the participation and awareness of the public in finding solutions to the Federal Government's budget problems;

(2) require the President, Congressional leaders, and the chief financial officers of the Government to report to the public on the well-being of the Federal Government's finances as a part of their fiduciary responsibilities; and

(3) bring a focus to efforts already underway that seek to develop and improve financial standards, annual reporting, and systems in the agencies of the Federal Government.

SEC. 3. ANNUAL REPORT.

Section 3513 of title 31, United States Code, is amended by adding at the end thereof the following:

"(d)(1) The Secretary of the Treasury shall prepare and distribute to all taxpayers described in paragraph (5) an annual report containing, at a minimum—

"(A) the most recent 5-year actual trends in Federal receipts, expenditures, fund balances, assets and liabilities, and debts by major category or source;

"(B) a comparison of the actual budget totals for the most recent fiscal year to the budget projections;

"(C) statements from the President, the Majority Leader of the Senate, and the Speaker of the House of Representatives regarding significant aspects of the Government's financial performance; and

"(D) any other relevant information on the Government's performance and contributions to economic growth, productivity, and investment in infrastructure.

"(2)(A) Preparation of the report shall be supervised and directed by the Deputy Director for Management of the Office of Management and Budget.

"(B) There is established an advisory committee to provide the Deputy Director for Management of the Office of Management and Budget with comments and suggestions on the design and content of the annual report. The advisory committee shall consist of 11 members as follows:

"(i) 5 members to be appointed by the President.

"(ii) 2 members to be appointed by the Majority Leader of the Senate.

"(iii) 1 member to be appointed by the Minority Leader of the Senate.

"(iv) 2 members to be appointed by the Speaker of the House of Representatives.

"(v) 1 member to be appointed by the Minority Leader of the House of Representatives.

"(3) The report shall contain statements by the Deputy Director for Management of the Office of Management and Budget and the Comptroller General attesting to the accuracy of the information contained in the report.

"(4) The report shall be prepared annually in a timely fashion after the close of each fiscal year.

"(5)(A) A taxpayer is described in this paragraph if such taxpayer designates on the form for the return of the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year that such taxpayer desires a copy of the report described in this subsection.

"(B) Space shall be made available for the designation referred to in subparagraph (A) on the first page of the tax return forms for such tax.

"(6) Nothwithstanding any other provision of law, the costs of preparing and distributing the report may be paid by contributions from corporations, foundations, and other private entities.".

SEC. 4. AUTHORIZATION.

For carrying out this act, there are authorized to be appropriated to the Secretary of the Treasury $10,000,000 for fiscal year 1993, and such sums as be necessary for fiscal years 1994 1995, 1996, and 1997. These amounts shall include any funds raised through the authority established in Section 3(6) of this Act.

By Mr. PRYOR (for himself and Mr. BOREN):

S. 3080. A bill to amend the Internal Revenue Code of 1986 to restore the exclusion from gross income for income from discharge of qualified real property business indebtedness; to the Committee on Finance.

DISCHARGE OF INDEBTEDNESS REFORM ACT

• Mr. PRYOR. Mr. President, many regions of this country are experiencing a decline in real estate values unprecedented since the Great Depression. This drop in real property values has meant ruin for many individual investors, and has endangered financial institutions around the country. As a result of this crisis, real estate financing and liquidity are virtually nonexistent.

More and more owners of rental real estate are struggling to come to grips with the inability of their properties to support the debt tied to those properties. These individuals are faced with

the choice of foreclosure, deeding the property back to the lender, or, if they are more fortunate, restructuring the debt on the property to more accurately reflect the properties' ability to service the debt.

Unfortunately, for solvent property owners restructuring real property debt produces taxable income, but not the cash to cover the taxes. Because there is no cash on hand to pay the taxes, property owners often must sell other properties at distressed prices in order to cover their tax bill for the restructured property. These distressed sales only exacerbate the crisis in real estate values, and increase the pressure on financial institutions by making loan workouts more difficult to achieve.

Before the Tax Reform Act of 1986, the Tax Code better reflected the economic realities of restructuring arrangements. Since discharge of real property indebtedness produces only phantom income for solvent owners, pre-1986 law allowed owners to lower the basis in real property to the extent of the discharge of indebtedness. This allowed owners to defer the payment of tax until there was cash to pay the taxes from the sale of the property. The Tax Reform Act of 1986 repealed this treatment for all taxpayers except for bankrupt or insolvent taxpayers and farm property.

Committee report language indicates that Congress exempted farm property because of the existence of a serious credit and liquidity crisis for farm owners. A similar crisis now exists in our national real estate market. I, therefore, believe that it is time that we reinstate the election to reduce the basis of depreciable property in lieu of immediate tax liability in cases involving the discharge of real property. My bill would reinstate this treatment for individual taxpayers.

For example, an individual taxpayer owns an office building and an apartment building. The office building has a tax basis of $30,000 and the apartment building has a mortgage of $100,000. The apartment building, through no fault of the owner, has declined in value and the rental income from the property now services a debt of only $75,000. The lender, facing a foreclosing situation, reduces the mortgage to $75,000. Instead of forcing the taxpayer to find the necessary cash to satisfy tax on $25,000, usually through the distress sale of other property, my legislation would allow the taxpayer to defer the tax liability by reducing the office building's basis to $5,000.

I urge my colleagues to join with me in sponsoring this important legislation. Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3080

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This act may be cited as the "Discharge of Indebtedness Reform Act of 1992".

(b) AMENDMENT OF 1986 Code.—Except as otherwise expressly provided, whenever, in this Act an amendment or repeal is expressed in terms or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. RESTORATION OF EXCLUSION FROM GROSS INCOME FOR INCOME FROM DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.

(a) IN GENERAL.—Paragraph (1) of section 108(a) of the Internal Revenue Code of 1986 (relating to income from discharge of indebtedness) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(D) the indebtedness discharged is qualified real property business indebtedness."

(b) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—Section 108 of such Code is amended by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—

"(1) BASIS REDUCTION.—

"(A) IN GENERAL.—The amount excluded from gross income under subparagraph (D) of subsection (a)(1) shall be applied to reduce the basis of the depreciable property of the taxpayer.

"(B) CROSS REFERENCE.—For provisions making the reduction described in subparagraph (A), see section 1017.

"(2) LIMITATION.—The amount excluded under subparagraph (D) of subsection (a)(1) shall not exceed the aggregate adjusted bases of depreciable property held by the taxpayer as of the beginning of the taxable year following the taxable year in which the discharge occurs (determined after any reductions under subsections (b) and (g)).

"(3) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—Indebtedness of the taxpayer shall be treated as qualified real property business indebtedness if (and only if)—

"(A) the indebtedness was incurred or assumed by an individual in connection with real property used in his trade or business, and

"(B) such taxpayer makes an election under this paragraph with respect to such indebtedness.

Such term shall not include qualified farm indebtedness."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 108(a)(2) of such Code is amended by striking "and (C)" and inserting ", (C), and (D)".

(2) Subparagraph (B) of section 108(a)(2) of such Code is amended to read as follows:

"(B) INSOLVENCY EXCLUSION TAKES PRECEDENCE OVER QUALIFIED FARM EXCLUSION AND QUALIFIED REAL PROPERTY BUSINESS EXCLUSION.—Subparagraph (C) and (D) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent."

(3) Subsection (d) of section 108 of such Code is amended by striking "Subsections (a), (b), and (g)" each place it appears in the heading thereof and in the text and headings paragraphs (6) and (7) and inserting "Subsections (a), (b), (c), and (g)".

(4) Subparagraph (B) of section 108(d)(7) of such Code is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any discharge to the extent that subsection (a)(1)(D) applies to such discharge."

(5) Subparagraph (A) of section 108(d)(9) of such Code is amended by inserting "or under paragraph (3) of subsection (c)" after "subsection (b)".

(6) Paragraph (2) of section 1017(a) of such Code is amended by striking "or (b)(5)" and inserting ", (b)(5), or (c)(1)".

(7) Subparagraph (A) of section 1017(b)(3) of such Code is amended by inserting "or (c)(1)" after "subsection (b)(5)".

SEC. 3. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—The amendments made by this Act shall apply to discharge after December 31, 1992, in taxable years ending after such date.●

● Mr. BOREN. Mr. President, I am pleased to join my colleague from Arkansas, Senator PRYOR, in introducing the Discharge of Indebtedness Reform Act of 1992.

Although the press coverage of the real estate crisis in the Southwest has declined dramatically, the crisis itself continues unabated. Real property values are depressed, and as a result, real estate financing and liquidity are often unavailable.

Financial institutions in Oklahoma and elsewhere in the Southwest are finding the path to recovery to be a long and difficult one. One of the biggest obstacles to recovery is the number of properties in this region that cannot support their debt load. Financially-strapped owners usually have three options: Declare bankruptcy, dump the property on the financial institution, or renegotiate the loan with the financial institution. The first two options only exacerbate the crisis for financial institutions, worsening their financial statements and increasing their capital requirements.

Unfortunately, the tax laws make the third option—renegotiating the loan with the bank or thrift—impossible for most owners because even though they are solvent, they lack the cash to pay the taxes owed after a restructuring. Since the Tax Reform Act of 1986, taxpayers who renegotiate debt secured by real property have been required to include discharge of indebtedness as income. The code provides for only two exceptions: family farmers and insolvent taxpayers.

The Discharge of Indebtedness Reform Act of 1992 would reinstate pre-Tax Reform Act tax treatment for individuals owning real property. Since discharge of indebtedness results in only phantom income for solvent taxpayers, this legislation would allow owners to lower their basis in real property to the extent of the discharge of indebtedness. This treatment would allow owners to defer the payment of taxes until the sale of the property, when they are more likely to have cash in hand to pay the additional taxes.

I urge my colleagues to join with the Senator from Arkansas and myself as cosponsors of this important legislation.●

By Mr. SIMPSON:

S. 3082. A bill to amend the Internal Revenue Code of 1986 to allow a waiver of the 3-year limitation on claiming a credit or refund; to the Committee on Finance.

CREDIT OR REFUND WAIVER AMENDMENTS

Mr. SIMPSON. Mr. President, I rise to introduce legislation to make a minor modification to the Tax Code, which I believe will be of important help to American taxpayers and to the integrity of the tax-collection process.

Mr. President, some weeks ago my office was contacted by constituents Ronald and Mary Jane See of Powell, WY. The story they told to me was a long and tragic one, and I will not go into all the details here. The essential points were these: The Sees were victims of a fire which destroyed most of what they owned, including their financial records. This fire occurred during a difficult period in their lives when they were experiencing other financial hardships, and led to a prolonged dispute with the Internal Revenue Service. This dispute was slow in resolution because of the loss in the fire of all of this couple's financial records. It became necessary for "substitute tax returns" to be prepared to determine the Sees' tax liability for a period of a few years.

I do not want to get into the specifics of who "is in the right" in this particular case. That is not what I have come here to the floor to discuss. Rather, I was very disturbed by something I discovered in the course of investigating this dispute.

I found that a strange situation arises when a couple inadvertently overpays their taxes over a period of a few years, and then underpays them in succeeding years. In this case, the amount of overpayment was reportedly larger than the amount of the underpayment—that is, on balance the IRS had reportedly received more of this couple's money than was actually owed.

Mr. President, under the law a real paradox arises out of such a situation. Even though, on balance, too much money might be paid to the IRS, the Internal Revenue Service will still in some instances come hard after the taxpayer and assess a liability for back taxes, and the corresponding interest and penalties as well.

This is not the result of the IRS running amok or acting out of any malice. It is the result of the way the law reads. Under current law, there is a 3-year statute of limitations on the credit one may claim for overpaying taxes, so in a situation like the one I have described, the overpayment, more than 3 years old, is forgotten while the underpayment is pursued.

Mr. President, let me say that I fully understand why there is a 3-year statute of limitations in the law. Under normal circumstances, certainly, there is no excuse for failing to file for a credit within 3 years of filing. My legislation would leave that 3-year statute of limitations in place.

But normal circumstances are not always there. Unusual circumstances sometimes obtain, and the law should have a modicum of flexibility to provide for that. My correspondence from the IRS states that "we know of no case where the Internal Revenue Service has been able to waive the statute, regardless of the hardship to the taxpayer." Which is to say, even though a couple may have overpaid their taxes over the years, and may be wiped out financially by new tax assessments, the law mandates that this occur. Mr. President, that is simply not right.

The legislation which I am introducing will make one small modification in the Tax Code to permit a waiver of the 3-year statute of limitations "upon a showing of good cause and reasonable diligence by the taxpayer."

I want to stress that this language places no new obligations on the IRS, nor does it undercut its ability to pursue taxes owed. What it does do is remove the barrier of the inflexibility of the law, which is apparently tying their hands in cases like this. I have purposely crafted the language so that it does not oblige the IRS to consider an old claim where there is no particular excuse or no particular hardship. All that my legislation would do would be to allow some flexibility in dealing with unusual, unforeseen circumstances, such as the one that I have briefly described today.

Mr. President, this is a moderate, minor change in the law, not intended to overturn the spirit of existing law, but rather to ensure that the spirit is properly upheld. It is certainly not part of the intention of any legislator here to see a working couple that have, on balance, overpaid their taxes, pursued for back taxes which are only owed because of a quirk in the law, to the point of financial ruin. I hope that my colleagues will support this change.

By Mr. WARNER (for himself and Mr. ROBB):

S. 3083. A bill to transfer title to certain lands in Shenandoah National Park in the State of Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

SHENANDOAH NATIONAL PARK ACT

Mr. WARNER. Mr. President, I rise today to introduce legislation which would authorize the Secretary of the Interior to transfer without reimbursement all right, title, and interest in certain lands in the Shenandoah National Park to the Commonwealth of Virginia.

In order to understand the necessity for this legislation one must first understand the history of the creation of the Shenandoah National Park.

In 1923, Stephen Mather, Director of the National Park Service, persuaded Secretary of the Interior Hubert Work to appoint a five-member committee to investigate the possibility of establishing a national park in the southern Appalachians. At this time there were no parks in the country east of the Mississippi River. In 1924, the committee was formed to find a site for such a park. Thus began the difficult 11-year effort to establish a park in the southern Appalachians.

On February 21, 1925, President Coolidge signed into law legislation which had been introduced by Senator Swanson of Virginia and Senator McKellar of Tennessee which called for the creation of a national park in the southern Appalachians and the Great Smoky Mountains.

In 1926, Congress authorized the park to be acquired by donation, without the expenditure of any Federal funds. This act did not officially create the parks but set forth the conditions of their establishment although in indefinite terms. The Secretary of the Interior and the committee were given the difficult task of raising the necessary funds for land acquisition. Therefore, while there was strong support for the creation of the park, its realization remained highly conditional since no Federal funds would be made available to purchase the park lands.

Although private donations were coming in, then-Gov. Harry F. Byrd realized the need to pursue other financing means if sufficient funds to acquire the acreage were to be realized. In January 1928, Governor Byrd asked the general assembly for a $1 million appropriation to make possible the purchase of park lands. A few days later, the legislature agreed and appropriated the funds. This $1 million appropriation coupled with the $1.25 million raised from private sources thus enabled Virginia to purchase the necessary acreage.

With the financial means in hand, the Virginia General Assembly passed in 1928 the National Park Act which authorized the State Commission on Conservation and Development to acquire land for transfer to the Federal Government to establish the Shenandoah National Park. In that same year, Senator Swanson and Representative Temple—both of Virginia—introduced identical legislation in both Houses of Congress "to establish a minimum area for the Shenandoah National Park, for administration, protection, and general development * * *" This legislation passed both Houses of Congress and was signed into law by President Coolidge on February 16, 1928.

Due largely to the appropriation by the State of Virginia and what historians have called Virginia's heroic land

acquisition efforts, the necessary acreage was required and the land titles were given to the Federal Government. On December 26, 1935, the Shenandoah National Park was officially established.

The Commonwealth's generous donation of lands to the Federal Government for the creation of this great park has now placed the Commonwealth in an unfortunate situation in which the State can no longer maintain the roads within the park. My legislation addresses this situation.

The transfer of land from the Commonwealth to the Federal Government specifically voided all rights-of-way for road purposes except for U.S. Highways 211 and 33. According to the deeds, the Commonwealth transferred ownership of all other roads and road rights-of-way on those lands to the Federal Government. Absolutely no reservations were retained by the Commonwealth for such roads.

Since 1935, the National Park Service at Shenandoah National Park has allowed the Commonwealth to maintain existing secondary roads on the fringes of the park that it wished to maintain through documents called special use permits. The Department of the Interior Solicitor has recently reviewed the applicable statutes in 16 United States Code and 23 United States Code and has determined that continuation of these special use permits is not appropriate. Special use permits may be used only to grant a temporary use of lands in national parks. The Solicitor has ruled that the established roads are not a temporary use and require complete ownership and control of the lands by the user. These permits expired over 2 years ago and the Department of the Interior will not reissue them. VDOT continues to maintain the roads without the permits although there is no guarantee this maintenance will continue. Furthermore, the NPS does not have the necessary equipment to maintain these roads at Shenandoah National Park and therefore, future maintenance of these roads is in serious question.

Federal law does not allow the National Park Service to give away park land for secondary road purposes. The only legal means to grant the Commonwealth road rights-of-way is an equal value land exchange authorized under the Land and Water Conservation Fund Act.

Mr. President, facing this dilemma, the Virginia Department of transportation has acquired land for this purpose, thereby placing the Commonwealth in the position of buying private land to give to the Federal Government to reacquire the rights-of-way of land that the Commonwealth gave away when the park was established.

Due to the unique circumstances of the park's creation, this equal value land exchange requirement is strongly opposed by the local communities and elected officials.

This opposition led to the Virginia General Assembly's passage of Senate Joint Resolution No. 505 on April 15, 1992, which would "establish a joint subcommittee to study the purchase of land by the Virginia Department of Transportation, or any other agency of the Commonwealth, for purposes of transfer to the Federal Government in exchange for the rights-of-way of secondary roads within the Shenandoah National Park." The resolution also requires "that the Virginia Department of Transportation and all other agencies of the Commonwealth suspend all activities, for 1 year, involving the acquisition of land and the transfer of such land to the Federal Government in return for road rights-of-way within the Shenandoah National Park * * *"

Mr. President, the U.S. Congress can resolve this controversy by passing this legislation which I am introducing today which would allow the Secretary of Interior to transfer to the Commonwealth—without reimbursement—all right, title, and interest in and to the roads within the part specified in the legislation.

Due to the Commonwealth's generous donation of lands to the Federal Government for the creation of the park, the Commonwealth should not be required to give the Federal Government land for exchange for maintaining and improving roads within the park.

I ask unanimous consent that the full text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3083

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER TO THE COMMONWEALTH OF VIRGINIA.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of the Interior may convey, without consideration or reimbursement, all right, title, and interest of the United States in and to the roads specified in subsection (c) to the Commonwealth of Virginia.

(b) CONDITIONS OF CONVEYANCE.—

(1) EXISTING ROADS.—A conveyance pursuant to subsection (a) shall be limited to the roads described in subsection (c) as the roads exist on the date of enactment of this Act.

(2) REVERSION.—A conveyance pursuant to subsection (a) shall be made on the condition that if at any time any road conveyed pursuant to subsection (a) is no longer used as a public roadway, all right, title, and interest in the road shall revert to the United States.

(c) ROADS.—The roads referred to in subsection (a) are those portions of roads within the boundaries of Shenandoah National Park that, as of the date of enactment of this Act, constitute portions of—

(1) Madison County Route 600;
(2) Rockingham County Route 624;
(3) Rockingham County Route 625;
(4) Rockingham County Route 626;
(5) Warren County Route 604;
(6) Page County Route 759;
(7) Page County Route 611;
(8) Page County Route 682;
(9) Page County Route 662;
(10) Augusta County Route 611;
(11) Augusta County Route 619;
(12) Albemarle County Route 614;
(13) Augusta County Route 661; and
(14) Rockingham County Route 663.

SEC. 2. TRANSFER TO THE SECRETARY OF THE TREASURY.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of the Interior may transfer certain land located in Shenandoah National Park and described in subsection (c) to the Secretary of the Treasury for use by the Secretary of the Treasury as a detector dog training center for the United States Customs Service.

(b) CONDITIONS OF TRANSFER.—

(1) PROTECTION OF PARK.—An agreement to transfer pursuant to subsection (a) shall include such provisions for the protection of Shenandoah National Park as the Secretary of the Interior considers necessary.

(2) CONSIDERATION.—A transfer pursuant to subsection (a) may be made without consideration or reimbursement.

(c) DESCRIPTION OF LAND.—The land referred to in subsection (a) has the following legal description:

The Tract of land located just West of Road No. 604 about 1 mile South of Front Royal, Warren County, Virginia, and bounded as follows:

Beginning at (1) a monument in the line of the land of Lawson just West of Road No. 604; thence with the land of Lawson and then with a new division line through the land of Shenandoah National Park N 59 deg. 45 min. 38 sec. W 506.05 feet to (2) a Concrete Monument set, said point being N 59 deg. 45 min. 38 sec. W 9.26 feet from a monument a corner to the land of Lawson; thence with another new division line through the land of Shenandoah National Park N 31 deg. 31 min. 00 sec. E 1206.07 feet to (3) a Concrete Monument set in the line of the land of the U.S. Government; thence with the land of the U.S. Government for the following two courses: S 07 deg. 49 min. 31 sec. E 203.98 feet to (4); thence S 09 deg. 10 min. 06 sec. E 27.79 feet to (5) a corner between the land of the U.S. Government and the land of U.S. Customs Service Detector Dog Training Center; thence with a 282.896 Acre Tract of land of U.S. Customs Service Detector Dog Training Center for the following six courses:

S 10 deg. 38 min. 32 sec. E	152.47 feet to (6); thence
S 00 deg. 48 min. 32 sec. W	127.52 feet to (7); thence
S 08 deg. 25 min. 46 sec. W	422.15 feet to (8); thence
S 14 deg. 37 min. 16 sec. W	106.47 feet to (9); thence
S 27 deg. 13 min. 28 sec. W	158.11 feet to (10); thence
S 38 deg. 17 min. 36 sec. W	146.44 feet to the point of beginning, containing 9.888 acres, more or less.

Mr. ROBB. Mr. President, I rise today to join my senior colleague, Senator WARNER, in introducing a bill to transfer title of certain lands in the Shenandoah National Park [SNP] from the Federal Government to the Commonwealth of Virginia.

Mr. President, in 1928, the Commonwealth of Virginia authorized the State Commission on Conservation and Development to acquire land for donation to the Federal Government to help form the Shenandoah National Park. With a few exceptions, the Commonwealth did not retain highway rights-of-way.

For years, in recognition of the park's origin, the Park Service allowed

the Virginia Department of Transportation to operate and maintain secondary roads with a series of special-use permits. Those permits have now expired, and the Interior Department has declared that it cannot authorize the Commonwealth to continue maintaining the roads unless the Commonwealth reacquires the rights-of-way, by exchanging land of equal value. Clearly, these circumstances create an inequity in which the citizens of Virginia are being asked to pay for the same land twice. In recognition of this basic unfairness, the Virginia State Senate and House of Delegates in April passed Senate Joint Resolution 505, which suspends most land exchanges involving the SNP for 1 year.

The legislation Senator WARNER and I are introducing today is meant to untie the hands of the Interior Department. The bill would authorize the Secretary of the Interior to convey to the Commonwealth of Virginia, without consideration or reimbursement, all right, title, and interests of the United States in certain specified roads within the SNP. All right, title, and interests in such roads would revert to the United States if and when they were no longer used as public roadways.

I hope that my colleagues will move swiftly to pass this bipartisan legislation.

By Mr. COCHRAN (for himself, Mr. BOND, Mr. BOREN, Mr. BURDICK, Mr. COHEN, Mr. CONRAD, Mr. D'AMATO, Mr. DECONCINI, Mr. DOLE, Mr. GARN, Mr. GLENN, Mr. HATCH, Mr. HOLLINGS, Mr. MCCAIN, Mr. MCCONNELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. ROTH, Mr. SMITH, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, and Mr. WELLSTONE):

S.J. Res. 328. Joint resolution to acknowledge the sacrifices that military families have made on behalf of the Nation and to designate November 23, 1992, as "National Military Families Recognition Day"; to the Committee on the Judiciary.

NATIONAL MILITARY FAMILIES RECOGNITION DAY

Mr. COCHRAN. Mr. President, I am introducing legislation today to designate November 23, 1992, as "National Military Families Recognition Day." I am pleased that 22 other Senators are cosponsors of this joint resolution, and that my friend and colleague from Mississippi, MIKE ESPY, has introduced this measure in the other body.

Military families deserve special recognition for the sacrifices they make and the hardships they often endure. Even in peacetime, frequent and extended separations, whether from a husband, wife, or children, often create special problems for the military family.

Most active duty personnel are reassigned every 2 years, thereby reducing career opportunities for spouses and limiting their ability to establish roots in any location. Military children must adjust to new schools and new neighborhoods on a regular basis.

This joint resolution would set aside a special day for the Nation to pay tribute to military families and thank them for their contributions to our Nation's security.

Mr. President, I ask unanimous consent that a copy of the joint resolution be printed in the RECORD.

Mr. President, I urge my colleagues to support this legislation.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 328

Whereas the Congress recognizes and supports Department of Defense policies to recruit, train, equip, retain, and field a military force capable of preserving peace and protecting the vital interests of the United States and its allies;

Whereas the people of the United States are particularly indebted to and respectful of the family members of the 569,000 military personnel deployed for Operation Desert Shield and Operation Desert Storm;

Whereas military families shoulder the responsibility of providing emotional support for their service members;

Whereas, in times of war and military action, military families have demonstrated their patriotism through their steadfast support and commitment to the Nation;

Whereas the emotional and mental readiness of the United States military personnel around the world is tied to the well-being and satisfaction of their families;

Whereas the quality of life that the Armed Forces provide to military families is a key factor in the retention of military personnel;

Whereas the people of the United States are truly indebted to military families for facing adversities, including extended separations from their service members, frequent household moves due to reassignments, and restrictions on their employment and education opportunities;

Whereas 72 percent of officers and 54 percent of enlisted personnel in the Armed Forces are married;

Whereas families of active duty military personnel (including individuals other than spouses and children) account for more than 2,815,000 of the more than 4,880,000 in the active duty community, and spouses and children of members of the Reserves in paid status account for more than 1,320,000 of the more than 2,470,000 in the Reserves community;

Whereas spouses, children, and other dependents living abroad with members of the Armed Forces total nearly 450,000, and these family members at times face feelings of cultural isolation and financial hardship; and

Whereas military families are devoted to the overall mission of the Department of Defense and have accepted the role of the United States as the military leader and protector of the free world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the Congress acknowledges and appreciates the commitment and devotion of present and former military families and the sacrifices that the families have made on behalf of the Nation; and

(2) November 23, 1992, is designated as "National Military Families Recognition Day" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

ADDITIONAL COSPONSORS

S. 25

At the request of Mr. MITCHELL, his name, and the names of the Senator from North Carolina [Mr. SANFORD], the Senator from Vermont [Mr. LEAHY], the Senator from Michigan [Mr. LEVIN], the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], the Senator from Texas [Mr. BENTSEN], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 25, a bill to protect the reproductive rights of women, and for other purposes.

S. 33

At the request of Mr. MOYNIHAN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 33, a bill to establish the Social Security Administration as an independent agency, and for other purposes.

S. 405

At the request of Mr. MITCHELL, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 405, a bill to amend the Harmonized Tariff Schedule of the United States to exclude certain footwear assembled in beneficiary countries from duty-free treatment.

S. 1372

At the request of Mr. GORE, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1372, a bill to amend the Federal Communications Act of 1934 to prevent the loss of existing spectrum to Amateur Radio Service.

S. 1451

At the request of Mr. BIDEN, the names of the Senator from Maryland [Mr. SARBANES], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 1451, a bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

S. 1966

At the request of Mr. BIDEN, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 1966, a bill to establish a national background check procedure to ensure that persons working as child care providers do not have a criminal history of child abuse, to initiate the reporting of all State and Federal child abuse crimes, to establish minimum guidelines for States to follow in conducting background checks and provide protection from inaccurate information for persons subjected to background checks, and for other purposes.

S. 2167

At the request of Mr. SEYMOUR, the name of the Senator from Texas [Mr.

GRAMM] was added as a cosponsor of S. 2167, a bill to restrict trade and other relations with the Republic of Azerbaijan.

S. 2236

At the request of Mr. SIMON, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2236, a bill to amend the Voting Rights Act of 1965 to modify and extend the bilingual voting provisions of the Act.

S. 2322

At the request of Mr. CRANSTON, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2322, a bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 2541

At the request of Mr. BOREN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2541, a bill to provide for improvements in the delivery of and access to health care in rural areas.

S. 2654

At the request of Mr. DECONCINI, the names of the Senator from Nevada [Mr. REID], the Senator from Alaska [Mr. STEVENS], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 2654, a bill to amend the Land and Water Conservation Fund Act of 1965 to ensure sufficient funding for Federal and State projects and for maintenance and security needs, to encourage multipurpose acquisitions, and for other purposes.

S. 2682

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 2682, a bill to direct the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of the protection of Civil War battlefields, and for other purposes.

S. 2810

At the request of Mr. GORE, the names of the Senator from Indiana [Mr. COATS], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 2810, a bill to recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

S. 2889

At the request of Mr. BOREN, the names of the Senator from Arkansas [Mr. BUMPERS], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 2889, a bill to repeal section 5505 of title 38, United States Code.

S. 2900

At the request of Mr. DOMENICI, the names of the Senator from Mississippi [Mr. LOTT], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 2900, a bill to establish a moratorium on the promulgation and implementation of certain drinking water regulations promulgated under title XIV of the Public Health Service Act (commonly known as the Safe Drinking Water Act) until certain studies and the reauthorization of the Act are carried out, and for other purposes.

S. 2914

At the request of Mr. DURENBERGER, the names of the Senator from Kansas [Mr. DOLE] and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 2914, a bill to direct the Secretary of Health and Human Services to make separate payment for interpretations of electrocardiograms.

S. 2941

At the request of Mr. RUDMAN, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 2941, a bill to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

S. 2979

At the request of Mr. MOYNIHAN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2979, a bill to amend the Internal Revenue Code of 1986 to encourage charitable contributions and improve compliance with the rules governing the deductibility of such contributions.

SENATE JOINT RESOLUTION 242

At the request of Mr. SPECTER, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from New Mexico [Mr. DOMENICI], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Maryland [Mr. SARBANES], the Senator from South Dakota [Mr. PRESSLER], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 242, a joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Joint Resolution 321, a joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week."

SENATE CONCURRENT RESOLUTION 126

At the request of Mr. SHELBY, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Concurrent Resolution 126, a concurrent resolution expressing the sense of the Congress that equitable mental health care benefits must be included in any health care reform legislation passed by the Congress.

AMENDMENTS SUBMITTED

COMMERCE, JUSTICE, AND STATE, JUDICIARY AND RELATED AGENCIES APPROPRIATIONS

HOLLINGS AMENDMENT NO. 2745

Mr. HOLLINGS proposed an amendment to the bill (S. 3026) making appropriations for the Departments of Commerce, Justice, and State, the judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes, as follows:

For the Fishing Vessel and Gear Damage Fund—

On page 50, line 3, strike the sum "$1,281,000"and insert in lieu "$1,306,000".

For the Fisherman's Contingency Fund—

On page 50, line 8, strike the sum "$1,000,000" and insert in lieu "$1,025,000".

For the Foreign Fishing Observer Fund—

On page 50, line 20, strike the sum "$571,000" and insert in lieu "$565,000".

For the Commission on Agricultural Workers—

On page 73, line 5, strike the sum "$585,000" and insert in lieu "$578,000".

For the Department of State, Salaries and Expenses—

On page 78, line 16, after the "amended" delete the following: "(22 U.S.C. 2669)".

For the Repatriation Loans Program Account—

On page 82, line 2, strike the sum "$1,000,000" and insert in lieu "$624,000".

For the American Sections, International Commissions—

On page 85, line 14, strike the sum "$4,410,000" and insert in lieu "$4,403,000".

For Russian, Eurasian, and East European Research and Training Program—

On page 86, line 17, strike the sum "$4,784,000" and insert in lieu "$4,961,000".

HOLLINGS (AND OTHERS) AMENDMENT NO. 2746

Mr. HOLLINGS (for himself, Mr. REID, Mr. BRYAN, and Mr. INOUYE) proposed an amendment to the bill S. 3026, supra, as follows:

On page 63 line 10 strike from "SEC. 206." through to and including "Louisiana." on line 13 and insert in lieu thereof the following:

SEC. 206A. The Under Secretary of Oceans and Atmosphere is authorized to construct a building, on approximately 15 acres of land to be leased for a 99-year term from the University of Southwestern Louisiana.

SEC. 206B. (a) The Under Secretary of Oceans and Atmosphere is authorized—

(1) to construct, on approximately 10 acres of land to be leased from the University of Nevada System, Desert Research Institute, or

(2) in the alternative, to acquire by lease construction on such land, with a lease term of up to 30 years, a Weather Forecast Office, upper air facility, regional climate center, and associated instruments and site improvements as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the Reno, Nevada, area.

(b) The Under Secretary is authorized to reimburse the Desert Research Institute for the cost of providing utilities and access to the site.

(c) The Under Secretary is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

SEC. 206C. (a)(1) The Under Secretary of Oceans and Atmosphere is authorized to lease building and associated space from the University of Hawaii, Honolulu, for the operation of a Weather Forecast Office, as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization program for the State of Hawaii, for a term of up to 20 years.

(2) Rental costs for the space leased under paragraph (1) shall not exceed fair annual rental value as established by governmental appraisal.

(b) The Under Secretary is authorized to expend funds to make all necessary alterations to the space to allow for operation of a Weather Forecast Office.

(c) The Under Secretary is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

KENNEDY (AND SIMPSON) AMENDMENT NO. 2747

Mr. HOLLINGS (for Mr. KENNEDY and Mr. SIMPSON) proposed an amendment to the bill S. 3026, supra, as follows:

On page 20, line 4, strike out "$990,894,000" and insert in lieu thereof "$990,694,000".

On page 20, between lines 14 and 15, insert the following:

COMMISSION ON IMMIGRATION REFORM

For necessary expenses of the Commission on Immigration Reform pursuant to section 141(f) of the Immigration Act of 1990, $800,000.

DOLE AMENDMENT NO. 2748

Mr. DOLE proposed an amendment to the bill S. 3026, supra, as follows:

At the appropriate place, add the following:

SEC. . The General Accounting Office is hereby directed to report to Congress by September 1, 1992, their explanation for failing to comply with Public Law 100-202, and to complete by the adjournment of Congress sine die of the 102d Congress, the reports required to be submitted to Public Law 100-202.

BREAUX (AND OTHERS) AMENDMENT NO. 2749

Mr. BREAUX (for himself, Mr. JOHNSTON, Mr. HOLLINGS, and Mr. RUDMAN) proposed an amendment to the bill S. 3026, supra, as follows:

Strike the paragraph regarding the Ready Reserve Force on page 71 of the bill, on line 10 beginning with "for" through to and including "program." On line 21, and insert in lieu thereof:

"For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, $146,000,000, to remain available until expended, of which $16,000,000 shall be available for the conversion of the U.S.N.S. HARKNESS: *Provided*, That funds available under this heading shall be available only to acquire ships which were registered in the United States on or before January 1, 1992, or to build Ready Reserve Research force ships in United States shipyards: *Provided further*, That reimbursement may be made to the operations and training appropriations for expenses related to this program.

MILITARY VESSEL OBLIGATION GUARANTEE PROGRAM

For the costs, as defined in subsection 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, as amended, $44,800,000: *Provided*, that the guaranteed loans made by the Secretary of Transportation, at the request of the Secretary of Defense, are only for types and classes of vessels determined by the Secretary of Defense, in consultation with the Secretary of Transportation, to be capable of having naval and military utility in time of war or national emergency: *Provided further*, That such loan guarantees shall be available only for construction of vessels in United States shipyards: *Provided further*, for administrative expenses to carry out the Guaranteed Loan Program, $2,350,000, which may be transferred to and merged with the operations and training appropriations for the Maritime Administration."

PELL AMENDMENT NO. 2750

Mr. HOLLINGS (for Mr. PELL) proposed an amendment to the bill S. 3026, supra, as follows:

On page 79, line 15, after "(22 U.S.C. 2718(a))" insert the following: ", and of which $300,000 shall be available for the Bureau of Oceans and Environmental and Scientific Affairs, for staff for followup activities to the United Nations Conference on Environmental and Development, including necessary travel".

DODD (AND OTHERS) AMENDMENT NO. 2751

Mr. DODD (for himself, Mr. PELL, and Mr. LIEBERMAN) proposed an amendment to the bill S. 3026, supra, as follows:

On page 76, line 25, strike all after "Armed Forces" up to and including page 77, line 2 and insert in lieu thereof the following: "of the United States, honorably discharged from active duty involuntarily or pursuant to a program providing bonuses or other inducements to encourage voluntary separation or early retirement, a civilian employee of the Department of Defense involuntarily separated from Federal service or retired pursuant to a program offering inducements to encourage early retirement, or an employee of a prime contractor, subcontractor, or supplier at any tier of a Department of Defense program whose employment is involuntarily terminated (or voluntarily terminated pursuant to a program offering inducements to encourage voluntary separation or early retirement) due to the termination (or substantial reduction) of a Department of Defense program,".

SMITH AMENDMENT NO. 2752

Mr. SMITH proposed an amendment to the bill S. 3026, supra, as follows:

At the appropriate place, add the following:

"The Assault Weapon Manufacturing Strict Liability Act of 1990 (D.C. Act 8-289, signed by the Mayor of the District of Columbia on December 17, 1990) is hereby repealed, and any provisions of law amended or repealed by such Act are restored or revived as if such Act had not been enacted."

DOLE AMENDMENT NO. 2752

Mr. DOLE proposed an amendment to amendment No. 2752 proposed by Mr. SMITH to the bill S. 3026, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

"The Assault Weapon Manufacturing Strict Liability Act of 1990 (D.C. Act 8-289, signed by the Mayor of the District of Columbia on December 17, 1990) is hereby repealed, and any provisions of law amended or repealed by such Act are restored or revived as if such Act had not been enacted. The provisions of the preceding sentence shall take effect one day following enactment."

BINGAMAN AMENDMENT NO. 2754

Mr. BINGAMAN proposed an amendment to the bill S. 3026, supra, as follows:

On page 73, line 18, delete the figure "$750,000" and insert in lieu thereof "$1,750,000";

On page 43, line 8, delete the figure "$121,021,000" and insert in lieu thereof "$119,923,000".

BROWN AMENDMENT NO. 2755

Mr. BROWN proposed an amendment to the bill S. 3026, supra, as follows:

On page 83, line 10, after "Agency" insert the following: ": *Provided further*, That none of the funds made available by this Act may be used to implement or enforce any International Coffee Agreement which has not been submitted to the United States Senate for its advice and consent:".

DODD AMENDMENT NO. 2756

Mr. HOLLINGS (for Mr. DODD) proposed an amendment to the bill S. 3026, supra, as follows:

On page 109, after line 8, insert the following new section:

SEC. 612. FEES FOR REGULATION OF INVESTMENT ADVISERS.

(a) IN GENERAL.—

(1) FEE.—

(A) CURRENTLY REGISTERED ADVISERS.—Each investment adviser registered under the Investment Advisers Act of 1940 prior to the effective date of this section shall submit to the Securities and Exchange Commission (hereafter referred to as the "Commission") an annual fee to be used by the Commission for recovery of the costs of supervision and regulation of investment advisers, as determined according to the schedule set forth in subparagraph (C).

(B) NEWLY REGISTERED ADVISERS.—Each person that becomes registered as an investment adviser in accordance with the Investment Advisers Act of 1940 on or after the effective date of this section shall pay the fees specified in the schedule set forth in subparagraph (C) upon such registration and annually thereafter.

(C) SCHEDULE.—The schedule set forth in this subparagraph is as follows:

Assets under management:	*Fee due:*
	Fee due:
Less than $10,000,000	$300
$10,000,000 or more, but less than $25,000,000	$500
$25,000,000 or more, but less than $50,000,000	$1,000
$50,000,000 or more, but less than $100,000,000	$2,500
$100,000,000 or more, but less than $250,000,000	$4,000
$250,000,000 or more, but less than $500,000,000	$5,000

	Fee due:
$500,000,000 or more	$7,000.

(2) USE OF FEES.—Fees collected in accordance with this subsection shall—

(A) be deposited as offsetting collections to the Securities and Exchange Commission appropriation for the fiscal year ending September 30, 1993;

(B) be available to the Securities and Exchange Commission in addition to any other funds provided for in this Act; and

(C) remain available until expended.

(b) EFFECTIVE DATE.—This section shall become effective upon the enactment of authorization legislation and adoption by the Securities and Exchange Commission of appropriate implementing rules and regulations.

PELL (AND CHAFEE) AMENDMENT NO. 2757

Mr. HOLLINGS (for Mr. PELL and Mr. CHAFEE) proposed an amendment to the bill S. 3026, supra, as follows:

On page 91, line 17, delete the period and insert in lieu thereof the following: ": *Provided further*, That $800,000 shall be available for the World Scholar-Athlete Games.".

ADAMS (AND PELL) AMENDMENT NO. 2758

Mr. HOLLINGS (for Mr. ADAMS and Mr. PELL) proposed an amendment to the bill S. 3026, supra, as follows:

At the end of the bill add the following:

SEC. . (a) Pursuant to Private Law 98–54 and notwithstanding any other provisions of law, the Secretary of the Treasury is directed to pay from funds provided in this Act to the Department of State and identified by the Secretary of State to Joseph Karel Hasek, $250,000 (less than 5 percent of his losses), together with interest calculated under subsection (b), not later than 30 days after enactment of this Act.

(b) The interest to be paid under subsection (a) shall represent the amount of interest accruing on $250,000 from August 1, 1955, to August 8, 1958, at a rate which shall be determined by the Secretary of the Treasury.

(c) No amount in excess of 10 percent of any amount paid pursuant to this section may be paid to or received by any attorney or agent for services rendered in connection which such payment, and any such excessive payment shall be unlawful, any contract to the contrary notwithstanding.

HOLLINGS (AND OTHERS) AMENDMENT NO. 2759

Mr. HOLLINGS (for himself, Mr. INOUYE, and Mr. GORTON) proposed an amendment to the bill S. 3026, supra, as follows:

Amend section 611 to read as follows:

SEC. 611. (a) None of the funds appropriated under this Act may be used by the Commission to develop, issue, implement, or enforce a rule or order affecting the use of the frequencies between 1850 and 2200 MHz by qualified private fixed microwave entities in the proceeding identified as ET Docket 92–9, or any successor proceeding, unless the Commission meets the requirements of subsection (b) and incorporates the requirements of subsection (c) into such rule or order.

(b) Such rule or order shall not take effect until 90 days after it has been issued by the Commission.

(c)(1)(A) The Commission shall not redesignate, from primary to secondary, any use of the frequencies between 1850 and 2200 MHz by a qualified private fixed microwave entity.

(B) The Commission may permit frequencies between 1850 and 2200 MHz that are allocated on a primary basis to qualified private fixed microwave entities to be used on a shared basis, except that any entity that shares the frequencies between 1850 and 2200 MHz with a qualified private fixed microwave entity shall bear the burden of eliminating any harmful interference to a primary system of a qualified private fixed microwave entity.

(C) Any newly licensed system, or any modification of or addition to an existing system, operated by a qualified private fixed microwave entity on frequencies between 1850 and 2200 MHz shall bear the burden of eliminating any harmful interference to any emerging telecommunications technology entity whose license was issued at an earlier date than the license for such newly licensed system or such modification or addition.

(D) Any grant of a license to a qualified private fixed microwave entity for a new system, or for modification of or addition to an existing system, to use frequencies between 1850 and 2200 MHz shall be on a primary basis, unless no other qualified private fixed microwave entity is operating on those frequencies on a primary basis.

(E) The Commission shall not, for the purpose of preserving the availability of frequencies for emerging telecommunications technologies or other uses, deny any application of a qualified private fixed microwave entity for a license for modification of or addition to an existing system, to operate on frequencies between 1850 and 2200 MHz.

(2) The Commission shall not impede or restrict the ability of qualified private fixed microwave entities operating on frequencies between 1850 and 2200 MHz, or of licensees or proponents of emerging telecommunications technologies, to enter into voluntary agreements for the purpose of optimizing efficient use of spectrum, including but not limited to migration of facilities to other frequencies or media.

(3)(A) At a date no earlier than 8 years following issuance of a rule or order affecting the use of the frequencies between 1850 and 2200 MHz by qualified private fixed microwave entities in the proceeding identified as ET Docket 92–9—

(i) any emerging telecommunications technology entity operating on or seeking to operate on frequencies between 1850 and 2200 MHz may submit to the Commission under this paragraph a proposal for migration of any qualified private fixed microwave entity's facilities operating on frequencies between 1850 and 2200 MHz to other frequencies or media; and

(ii) any qualified private fixed microwave entity operating or seeking to operate on frequencies between 1850 and 2200 MHz may submit to the Commission under this paragraph a proposal for migration of any emerging telecommunications technology entity's facilities operating on frequencies between 1850 and 2200 MHz to other frequencies or media.

(B) Any migration proposal under subparagraph (A) (i) or (ii) shall demonstrate that—

(i) the party proposing such migration has a license to operate on the frequencies used by the party subject to the migration or otherwise has the qualifications to use those frequencies;

(ii) there is a need for the proposed migration, including the unavailability to the party proposing the migration of other equally reliable frequencies at costs comparable to those for a system operating on frequencies between 1850 and 2200 MHz;

(iii) the party proposing such migration has in writing notified the party subject to migration (within a reasonable time sufficient to enable the parties to discuss entering into a voluntary agreement as described in paragraph (2)) of its intent to submit a migration proposal;

(iv) an alternative communications system for the party subject to migration would be available and would be at least as reliable in all respects as the communications system such party is operating at the time of the proposal; and

(v) the party proposing such migration will pay all costs associated with such migration and necessary to ensure the reliability of the alternative communications system, as such costs are incurred.

(C)(i) The Commission shall approve the proposed migration if the Commission finds that the migration proposal makes the demonstrations described in subparagraph (B) (i), (ii), (iii), (iv), and (v).

(ii) If the Commission does not make the findings described in clause (i), the Commission shall not approve the proposed migration.

(iii) If the Commission approves the proposed migration, the Commission shall provide that the party subject to migration shall be provided an adequate period of time in which to construct and test the proposed alternative communications system and to complete migration. The party subject to migration shall not be required to cease using the frequencies between 1850 and 2200 MHz until the reliability of the alternative communications system has been established.

(iv) If the Commission approves the proposed migration, the Commission shall retain jurisdiction over the proposed migration to resolve all remaining disputes to ensure that the demonstrations described in subparagraph (B) (i), (ii), (iii), (iv), and (v) are made.

(d) The Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report which analyses the feasibility of allowing frequencies reserved for use by the Federal Government as of June 1, 1992, to be used by emerging telecommunications technology entities, or by any qualified private fixed microwave entity now operating on frequencies between 1850 and 2200 MHz.

(e) In this section, the following definitions apply:

(1) The term "Commission" means the Federal Communications Commission.

(2) The term "existing" means in operation on the date of enactment of this Act.

(3) The term "harmful interference" means any interference from any technology that exceeds the level of protection equivalent to that provided under section 94.63 of title 47, Code of Federal Regulations.

(4) The term "qualified private fixed microwave entity" means an entity licensed or permitted, or eligible to be licensed or permitted, under part 90 of title 47, Code of Federal Regulations, for Public Safety Radio Services, Special Emergency Radio Services, Power Radio Services, Petroleum Radio Services, and Railroad Radio Services.

BUMPERS AMENDMENT NO. 2760

Mr. HOLLINGS (for Mr. BUMPERS) proposed an amendment to the bill S. 3026, supra, as follows:

On page 3, line 20, of the Hollings amendment, add at the end the following "(except where such entity is a State or local government, or an agency thereof)".

SEYMOUR AMENDMENT NO. 2761

Mr. SEYMOUR proposed an amendment to the bill S. 3026, supra, as follows:

INS BORDER PATROL HOT PURSUIT POLICY

SEC. . CHANGES IN CURRENT BORDER PATROL HOT PURSUIT POLICY

(a) IN GENERAL.—The Attorney General, after consultation with the Commissioner of the Immigration and Naturalization Service, shall revise and implement, by not later than January 1, 1993, U.S. Border Patrol Pursuit policies which shall improve safety and prevent future accidents such as that which occurred in Temecula, California, on June 2, 1992.

(b) IMMEDIATE ACTION.—The Attorney General, after consultation with the Commissioner of the Immigration and Naturalization Service, not later than 30 days after enactment of this Act shall—

(1) implement a schedule of stationing available helicopters at border checkpoints to assist in hot pursuit events;

(2) implement an effective communications system between INS, Border Patrol, and local and state law enforcement agencies, which effectively incorporates state and local law enforcement officials in the pursuit and apprehension of fleeing suspect vehicles.

SEYMOUR AMENDMENT NO. 2762

Mr. SEYMOUR proposed an amendment to the bill S. 3026, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . REPORT ON PRISONER TRANSFER TREATY BETWEEN THE UNITED STATES AND MEXICO.

(a) FINDINGS.—Congress finds that—

(1) the number of aliens who come into this country illegally continue to be at enormously high levels;

(2) a greater proportion of aliens who come into this country illegally do so for the purpose of participating in organized drug trafficking or other criminal operations, or engaging in criminal activity within the United States;

(3) alien involvement in criminal activity nationwide has risen sharply during the past decade;

(4) the number of convicted criminal aliens in State prisons and local jails has risen sharply;

(5) in some jurisdictions, one out of every four prisoners in local jails is a criminal alien;

(6) the rise of criminal alien population has placed enormous costs on State and local governments and the taxpayers in the area;

(7) policies and programs that result in the expeditious deportation of criminal aliens from the United States are needed;

(8) one method to expedite the deportation of criminal aliens is to establish prison transfer programs where a convicted alien serves all or a portion of the sentence in his or her home country; and

(9) a determination of the methods and the costs to implement effective alien transfer programs in needed.

(b) IN GENERAL.—Not later than April 1, 1993, the Secretary of State and the Attorney General shall submit to the appropriate committees of the Congress, a report that describes the use and effectiveness of the Prisoner Transfer Treaty (hereafter in this section referred to as the "Treaty") with Mexico to remove from the United States aliens who have been convicted of crimes in the United States.

(c) USE OF TREATY.—Such report shall include a statement of—

(1) the number of aliens convicted of a criminal offense in the United States since November 30, 1977 who would have been or are eligible for transfer pursuant to the Treaty, and, of such number, the number of aliens who have been transferred pursuant to the Treaty, and, of such number, the number of aliens transferred and incarcerated in full compliance with the Treaty; and

(2) the number of aliens in the United States who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the Treaty, and, of such number, the number of aliens incarcerated in State and local penal institutions.

(d) EFFECTIVENESS OF TREATY.—Such report may include a list of recommendations to increase the effectiveness and use of, and ensure full compliance with the Treaty, as well as transfer programs initiated by State and local governments. Such recommendations may include—

(1) changes and additions to Federal laws, regulations and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(2) changes and additions to State and local laws, regulations and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(3) methods for preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the Treaty;

(4) a statement by officials of the Mexican Government on programs to achieve the goals of and ensure full compliance with the Treaty;

(5) a statement as to whether recommendation would require the renegotiation of the Treaty; and

(6) a statement of additional funds that would be required to implement the recommended.

Such recommendations in paragraphs (1) through (3) may be made after consultation with State and local officials in areas disproportionately impacted by aliens who have been convicted of criminal offenses.

(e) IMPLEMENTATION.—The Attorney General and the Secretary of State shall implement no later than May 1, 1993, any administrative and regulatory recommendations as described in subparagraphs (d)(1)

SEYMOUR AMENDMENT NO. 2763

Mr. SEYMOUR proposed an amendment to the bill S. 3026, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . PAYMENT OF SALARIES OF ADDITIONAL IMMIGRATION JUDGES.

(a) The Attorney General shall evaluate the ability of the existing level of immigration judges to the Executive Office of Immigration Reform to meet its current and anticipated workload for fiscal year 1993 and the possibility of reprogramming of immigration examination fees to support additional immigration judges and personnel.

DISCLOSURE OF KENNEDY ASSASSINATION RECORDS ACT

GLENN AMENDMENT NO. 2764

Mr. HOLLINGS (for Mr. GLENN) proposed an amendment to the bill S. 3026, to provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy; as follows:

On page 13, strike lines 9 through 14 and insert the following:

(G) give priority to—

(i) the identification, review, and transmission of all assassination records publicly available or disclosed as of the date of enactment of this Act in a redacted or edited form; and

(ii) the identification, review, and transmission, under the standards for postponement set forth in this Act, of assassination records that on the date of enactment of this Act are the subject of litigation under section 552 of title 5, United States Code; and

On page 15, line 7, after "make" insert "immediately".

On page 15, lines 8 and 9, strike "not later than 300 days after the date of enactment of this Act".

On page 17, line 3, after "operations," insert "law enforcement,".

On page 22, line 15, strike "after receiving the report from" and insert "after reported by".

On page 25, line 7, strike "create" and insert "complete".

On page 26, line 1, after "(iii)" insert "request the Attorney General to".

NOTICE OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on H.R. 5191, the Small Business Equity Enhancement Act of 1992. The hearing (postponed from an earlier date) will take place on Wednesday, July 29, 1992, at 10:30 a.m., in room 428A of the Russell Senate Office Building. For further information, please call Patty Forbes, counsel to the Small Business Committee at 224-5175.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Monday, July 27, 1992, at 2 p.m. to conduct a hearing on S. 2907, the National Flood Insurance Reform Act of 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, July 27, at 3 p.m. to hold a hearing on United States plans and programs regarding weapons dismantlement in the former Soviet Union.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CHILD NUTRITION

• Mr. SARBANES. Mr. President, last Thursday the Senate Appropriations Committee reported the Agriculture appropriations bill for fiscal year 1993 which includes a $260 million increase for the Women, Infants and Children [WIC] Supplemental Feeding Program and a $5 billion increase for the Food Stamp Program. I applaud the committee's efforts as a commendable step to provide funding for programs essential to the health and well-being of many of our Nation's citizens. However, in my view, more needs to be done in this critical area, especially in terms of providing for our children.

According to a national study coordinated last year by the Food Research and Action Center [FRAC], 5.5 million American children under the age of 12 are hungry—one out of every eight children living in this country. Further, the study indicated that hungry children are two to three times more likely than other children to have suffered from individual health problems such as unwanted weight loss, fatigue, irritability, and headaches. Obviously, children who are faced with these distractions are much less likely to reach their full potential and become productive adults. If our Nation is to succeed in an increasingly competitive world, efforts must be expanded to ensure our children have access to basic nutrition. While I have discussed our Nation's history of Federal support for nutrition programs before, it is, in my view, important to review what was, for many years, a strong commitment to funding for food assistance programs.

The first significant history for Federal food donations was included in legislation enacted in 1935 which made funds available to the Agriculture Department to encourage the domestic consumption of agricultural commodities by diverting them from normal channels of trade. With passage of the National School Lunch Act on June 4, 1946, a major shift occurred in the purpose of food distribution programs. The stated purpose of this legislation was not only to provide a market for agricultural production, but also to improve the health and well-being of the Nation's youth.

A further shift in the primary purpose of food distribution programs from surplus disposal to that of providing nutritious foods to needy households occurred following the issuance of an Executive order in 1961 which mandated that the Agriculture Department increase the quantity and variety of foods donated for needy households. Congress continued to expand food and nutrition programs during the sixties and seventies, increasing reimbursements and expanding program eligibility to cover a wider range of low-income families. Critical new programs were put into effect, including the WIC Program and nutrition programs targeted at the elderly.

However, after nearly 45 years of almost uninterrupted growth, Federal funding for these critical food assistance programs was drastically cut through the Reagan administration's Omnibus Budget Reconciliation Act of 1981. This measure, which reduced Federal funding for all domestic programs by $35 billion in fiscal year 1982, cut approximately $1.4 billion from child nutrition programs.

These cuts in spending for child nutrition programs amounted to about 25 percent of the amount that would have been spent in fiscal year 1982 had no changes been enacted. The School Lunch Program received the largest dollar amount reduction, losing almost $1 billion in fiscal year 1982. The Special Milk Program was cut by 77 percent, grant funding for the Nutrition, Education and Training Program [NET] was cut from $15 to $5 million, and the Summer Food Service Program was reduced by 54 percent below the expected fiscal year 1982 level. A commodity reimbursement rate cut lowered fiscal 1982 spending for commodity distribution by an estimated 42 percent and the Child Care Food Program was cut by 29 percent.

Efforts to restore some of the cutbacks in these programs began in the mideighties with the passage of the Food Stamp amendments to the 1985 farm bill and the School Lunch and Child Nutrition amendments of 1986. In 1988, Congress passed the Hunger Prevention Act, major legislation later enacted into law, that mandated funding for commodity purchases for soup kitchens and food banks, expanded reimbursements and eligibility for the School Breakfast, Child Care Food, and Summer Food Service programs, and liberalized food stamp benefits and eligibility rules. In addition, Congress helped to spare further cuts in Federal funding for child nutrition programs by refusing to accept repeated requests from the administration to end all Federal support for meals served to nonpoor children. Had this request been implemented, it would have eliminated the broad-based nutrition support focus of the programs.

I am pleased that largely through these congressional efforts, Federal funding for food assistance programs has increased since the cutbacks of the early 1980's, with Federal support for these programs growing, according to the Congressional Research Service, by 72 percent, approximately 10 percent more than inflation. However, these levels are still far from what is required to ensure that all our country's children are adequately fed.

According to the 1990 U.S. Census, it is estimated that 33.6 million people live in poverty in the United States. While this number is clearly unacceptable and has increased from 24.5 million, the level in 1972, I am particularly concerned about the Census Bureau's data as it relates to children. An analysis of the Bureau's findings by the Children's Defense Fund shows that the number of children living in poverty grew by more than 1 million during the 1980's, an 11.2 percent increase from 1979 to 1989. The percentage increase is even higher when the 1990's numbers are compared to census statistics from the 1970's. That comparison shows the rate of children living in poor families has increased by an astonishing 33 percent, so that today, one in every five children is impoverished.

These figures are especially disconcerting since comprehensive programs, proven effective over time, have been in place to serve the needs of these children, only lacking the funding to address the problem appropriately. For example, according to a 1991 Congressional Research Service study, funding for the School Lunch Program, which serves the largest number of children of all the child nutrition programs, has not kept pace with inflation during the past decade, with overall participation declining by 2.5 million children, so that approximately 40 percent of all the children eligible for this program do not participate. This percentage would increase if the administration's fiscal year 1993 budget proposal to reduce by 20 percent the Federal subsidies for the School Lunch Program has been adopted.

As a cosponsor of S. 757, the Mickey Leland Childhood Hunger Relief Act, I am also very concerned that the administration's budget does not contain funding for this legislation, a bill thought by many to be the most important antihunger legislation this country has seen in 15 years. S. 757 directly addresses the issue of childhood hunger by encouraging a better diet for low-income people, promoting self-sufficiency among food stamp recipients and simplifying the administration of food assistance programs. It is my view that any comprehensive policy to alleviate childhood hunger must include funding for this critical measure.

While I note that the administration has proposed a significant increase in funding for the WIC Program, I regret that the increase in funding came at the expense of other important pro-

grams. In their analysis of the administration's fiscal year 1993 budget, the Child Welfare League of America indicated that overall spending for discretionary programs for children and families has been reduced by $433 million or 7 percent. I am further concerned that, even with the increase, the administration's proposal for funding WIC is still significantly less than what is necessary to assure that this very successful, cost effective program is available to all eligible individuals. As a cosponsor of S. 2387, the Every Fifth Child Act, a measure that would make appropriations to begin a phase-in toward full funding for WIC, I want to ensure that this meaningful program will meet the needs of the over 3 million low-income, nutritionally at risk women and children that were not served by this program last year.

As the necessity for increased funding for childhood nutrition programs has become painfully obvious and urgent, I wish to remind my colleagues, once again, of legislation to take down the arbitrary budget walls, enacted as part of the Omnibus Budget Reconciliation Act of 1990, which prevent savings from defense from being used for domestic purposes. These walls are based on assumptions about our defense needs, made almost 2 years ago, that have no relevance in the changed world in which we now find ourselves. While a strong military is still essential, the savings that would be procured from taking down these walls is substantial and could be used to fund many critical domestic programs, including the School Lunch Program, WIC, and the Every Fifth Child Act.

As you know, on February 25, 1992, I joined with Senator SASSER in introducing a measure to take down these walls and allow a rational choice between defense and domestic discretionary spending. I regret that the Senate did not vote in sufficient numbers to end the Republican led filibuster of this legislation and that the motion to invoke cloture and proceed to the bill failed by a vote of 50 to 48, 10 votes shy of the 60-vote majority needed to cut off debate. It is my view that continued administration opposition to this legislation has effectively prevented the opportunity for any reasoned debate on our national economic priorities.

Mr. President, this Nation's long record of strongly supporting child nutrition programs illustrates the high priority we have placed on ensuring that our children, this country's most precious resource, are adequately prepared to succeed in this increasingly competitive world. The unwillingness of the past two administrations to acknowledge this priority and accept the responsibility of funding these crucial programs is, in my view, an unmitigated tragedy. While I am pleased that the Senate Appropriations Committee has, under the artificial constraints of the Budget Enforcement Act, recognized the importance of childhood nutrition, we must continue our efforts to provide greater Federal support for critical nutrition programs which are of such great importance to many of our Nation's children.●

CELEBRATING MRS. RUTH HOLLIDAY WATKINS 100TH BIRTHDAY

● Mr. BOND. Mr. President, I rise today to urge my colleagues in the U.S. Senate to join me in paying tribute to Mrs. Ruth Holliday Watkins on her 100th birthday. Mrs. Watkins has been devoted to serving others for many years.

Mrs. Watkins was the founder and first president of the International Institute of Metro St. Louis in 1919. In 1989 she participated in their 70th anniversary. She has served with the Family and Children's Services, the YWCA, the Provident Counseling, and the Second Presbyterian Church. Mrs. Watkins organized and served as the first president of the St. Louis Science Center Woman's Division. In 1960, she received an honorary doctor of humanities degree from Lindenwood College for her loving dedication of intelligence and imagination to the community.

Thanks to Mrs. Watkins humanitarian contribution, the Horton Watkins High School was established in 1953. She donated the land for the school and its enlargements. The Horton Watkins High School is well respected and many students have enjoyed their teachings.

While still being an active and dedicated servant of the community, Mrs. Watkins raised three children and has three grandchildren and five great grandchildren. She still continues to support many local and national organizations.

Mr. President, the people of St. Louis are grateful for Mrs. Ruth Holliday Watkins years of service, loyalty, and dedication to its communities. I join her family and friends in wishing her a happy 100th birthday. St. Louis is indeed fortunate to have such a dedicated public servant as Mrs. Ruth Holliday Watkins.●

SOUTH DAKOTA HONORS CZECH DAYS AND THE SCOTTIE STAMPEDE RODEO

● Mr. DASCHLE. Mr. President, America truly is a melting pot of nations. Many people have traveled and continue to travel to our shores seeking refuge and a chance at a new life in the land of opportunity. One such group is the Czechoslovakian population that came and settled in South Dakota. In recognition of the contribution the Czech immigrants made to the culture of South Dakota, I am proud to draw the attention of my colleagues to the 44th annual Czech Days celebration which was held on June 19 and 20 in Tabor, SD. The South Dakotans of this area have tried to preserve the ways of the Czechoslovakian people, and, with great appreciation, I applaud the effort of those citizens who celebrate their heritage in this manner every year.

Another way we celebrate South Dakota's heritage is with a rodeo. Rodeos have always played an important role in our lives. In this spirit, I would like to recognize the 27th annual Scottie Stampede Rodeo to be held in Scotland, SD, on August 8 and 9, 1992. This event has rightly been billed as a great family-oriented event. Cowboys travel great distances to compete in Scotland. The Scotland Rodeo Club plans this event which acts to maintain rodeo as an active and vital part of South Dakota's heritage.

The South Dakota Legislature has passed resolutions commemorating Czech Days and the Scottie Stampede Rodeo, and I ask that the resolutions be printed in the RECORD at the close of my remarks.

Mr. President, I commend the sponsors of both of these events and the two resolutions and thank them for preserving the unique cultural character of the State of South Dakota.

The resolutions follow:

HOUSE COMMEMORATION NO. 1011

Whereas, Tabor Czech Days celebrates the rich cultural heritage that the Czech immigrants transported from their homeland to enrich their new home in South Dakota; and

Whereas, the peoples of Czechoslovakian descent have consciously preserved the language, customs, dress, spirit and cuisine of their immigrant ancestors; and

Whereas, this year's Czech Days' Royalty are: Queen Crystal Carda, daughter of Lawrence and Darlene Carda of rural Tabor; Prince Kyle Kreber, son of John, Jr. and Kim Kreber of rural Tyndall; Princess Selina Cimpl, daughter of Joe and Deb Cimpl of Tabor; and

Whereas, many fine attractions await those visiting the 44th Annual Czech Days, including the Czech Heritage Museum, Blachnik Museum, St. Wenceslaus Catholic Church, adult and children's programs in Sokol Park, live Czech music in Beseda Hall and two beer gardens: Now, therefore, be it

Commemorated, by the Sixty-seventh Legislature of the state of South Dakota, that the Legislature congratulate the Czech peoples of South Dakota for their outstanding, traditional celebration and invite all South Dakotans to participate in the 44th annual Czech Days on June 19th and 20th in Tabor, South Dakota.

HOUSE COMMEMORATION NO. 1042

Whereas, the 27th annual Scottie Stampede Rodeo held Saturday and Sunday, August 8 and 9, 1992, is a great family oriented event with talented cowboys from around the state and the nation coming to Scotland, South Dakota, to compete for prize money, fame and glory; and

Whereas, after the rodeo on Saturday night, there will be a country western dance at the Scotland City Hall that will be a great entertainment event; and

Whereas, the Scotland Rodeo Club does an outstanding job in promoting and hosting this fine event: Now, therefore, be it

Commemorated, by the Sixty-seventh Legislature of the state of South Dakota, That the Legislature congratulates the people of Scotland, South Dakota, for their outstanding celebration and invites all South Dakotans to participate in the 27th annual Scottie Stampede Rodeo on Saturday and Sunday, August 8 and 9, 1992, in Scotland, South Dakota.•

DEMOCRATIC HISPANIC TASK FORCE FIELD HEARING

• Mr. SIMON. Mr. President, last May in my home State of Illinois, I chaired a field hearing of the Senate Democratic Hispanic Task Force on issues facing the Hispanic family—education, employment, and health care.

At the Chicago field hearing, I heard from a diverse group of men and women who provided very useful testimony about the challenges facing the Hispanic communities in these areas. The witnesses who testified also made a series of important and serious recommendations in these areas. Over the past several days, I have included testimony from the witnesses at the hearing in the RECORD. I ask that the fourth of five groups of testimony be included at this point in the RECORD.

The testimony follows:

UNIVERSITY OF ILLINOIS AT CHICAGO,
Chicago, IL, May 5, 1992.

Hon. PAUL SIMON,
U.S. Senate,
Kluczynski Building, Chicago, IL.

DEAR SENATOR SIMON: I would like to reiterate my appreciation for your invitation to attend the community forum and field hearing on issues affecting the Latino community. Your involvement in these concerns, and your willingness to engage Latino leaders in the process will bring about greater sensitivity and, hopefully, more initiatives and resources from the U.S. Congress.

Enclosed please find some thoughts regarding the Hispanic Centers of Excellence which was alluded to by Dr. Aida Giachello during her testimony. Dr. Giachello and others spoke about the need for more bilingual, bicultural health professionals to address growing health problems among Latinos. The Hispanic Centers of Excellence, if approached appropriately, can provide a model to deal with health professions training, research, outreach health services, and policy-making for Latinos in Illinois and elsewhere in the nation.

In the spirit of a holistic, integrated approach to health and education problems affecting Latinos I urge you to consider the suggestions enclosed herewith. My colleagues in the Hispanic Centers of Excellence and I stand ready to assist you in any way you deem necessary. Thank you in advance for your consideration in this matter.

Sincerely,

JORGE A. GIROTTI, Ph.D.,
Assistant Dean and Director,
Hispanic Center of Excellence.

THE HISPANIC CENTERS OF EXCELLENCE (HCOE) A MODEL FOR AN INTEGRATED APPROACH TO HEALTH PROFESSIONS TRAINING, RESEARCH, OUTREACH SERVICES, AND POLICY-MAKING FOR HISPANICS

BACKGROUND

The legislation that established Hispanic and Native American Centers of Excellence was initially designed for Historically Black Colleges and Universities (HBCU). In 1987 Congress passed a bill to assist HBCUs which trained African American health professionals. There are currently four such schools receiving approximately $12.5 million per year to enhance their training programs. The extension to include Hispanics and Native Americans was passed into law in 1990. About $2.5 million were appropriated to fund this expansion. One million was designated for Native Americans, and $1.5 million for Hispanics. During its first cycle, five schools (four medical and one pharmacy) receive funding under the Native American, and seven (all medical) schools under the Hispanic Centers of Excellence. The University of Illinois at Chicago College of Medicine is among these seven. The average award per school is $200,000.

The idea of "Centers of Excellence," that is the recognition by the Department of Health and Human Services (DHHS) that some institutions have shown a consistent and substantial track record in educating groups of people who are underrepresented in the health professions, is a solid one. For African Americans, HBCUs represent a natural repository of this designation for they have been created to address those particular needs.

For Hispanics, however, there are no counterparts to the HBCUs. Hispanics in the U.S. have had to rely on "mainstream" institutions to address their educational and health needs. Some institutions, for a variety of reasons, have done better in this respect than others. Therefore, the idea of recognizing those institutions through the "Centers of Excellence" designation is still a solid approach. Unfortunately, the DHHS has stopped short on what could become a model to integrate the various aspects of health professions training, research, outreach services, and policy-making for Hispanics.

Some Questions and Answers Regarding an Integrated Model

Q: Is there a need to have Hispanic Centers of Excellence (HCOE) occupying a separate free-standing edifice on campus?

A: It would be ideal to have a building on campus whose sole purpose was to consolidate the variety of ongoing efforts to address Hispanic health professions education, research, community outreach services, and policy-making issues. For instance, the Chicago metropolitan area continues to see steady increase in the Hispanic population. Eighty-five percent of all Latinos who live in Illinois. reside in the six-county area surrounding Chicago. A building on the University of Illinois at Chicago campus would provide the impetus to bring together faculty, staff, community leaders, and students, both Latios and non-Latinos with an interest in the welfare of the community, to address pressing issues affecting the population.

Q: What would be the key elements of this kind of initiative?

A: To make the above a reality there would be a need to build a home for the HCOE; to have a core faculty, a well as adjunct faculty; to provide scholarship assistance to students; and to establish a multidisciplinary approach.

First of all, a structure that would provide appropriate facilities to carry out the various objectives of the HCOE would have approximately 45,000 square feet of laboratory, classroom and office space. Currently, such facility would cost an estimated $7 million to build. Secondly, such Center should begin with a core full-time faculty of at least ten individuals, and could provide opportunities for dual assignment of faculty with other departments on campus. At least ten individuals could initially be recruited. thirdly, scholarships are indeed a major problem for Latino students with the talent and interest in the health professions and biomedical research. Ideally the Center would support fifty individuals on an annual basis at various levels of training.

Finally, an inter-disciplinary approach would make more sense if we want to address the myriad problems affecting health care delivery for Hispanics. At the University of Illinois at Chicago the Colleges of Nursing, Pharmacy, and Public Health, as well as the Early Outreach Program should receive support for Hispanic initiatives. Probably $1 million per year would be necessary at this time to initiate efforts in those areas. However, it is important to note that support should be provided to medicine-based HCOEs first so that they can accomplish what they have set out to do, then move on to other professions and build those programs.

Q: Would it be appropriate for HCOEs to function as coordinating centers for other DHHS-funded initiatives on a regional basis?

A: To the extent that those public health, education, outreach, and research efforts are exclusively directed at the Latino population, then it would be fitting to include the HCOEs in some coordinating capacity, particularly if we are functioning in the ideal environment described above. It would behoove the DHHS and its agencies to consider such holistic approach.

Q: What could be described as examples of a coordinating function for NCOEs?

A: For instance, designating certain HCOEs to "specialize" in one disease which disproportionally affects Hispanics would be a most efficient way to invest Federal resources and make a widespread impact on the health status of Latinos in the U.S. In this regard it would be important to include all regions of this country where Latinos live. The Midwest is many times overlooked in favor of a "bi-coastal" approach to fund distribution. Illinois has the fifth largest Latino population in the U.S. and should be considered on an equal basis.

Q: What are some long term objectives for an integrated HCOE?

A: In terms of health professions education, here are some realistic objectives:

1. Provide an academic enrichment/health education program for sixth, seventh, and eighth grade students.

2. Develop and implement a big brother/big sister mentoring program between medical, undergraduate, high school, and grammar school students.

3. Design and implement collaborative programs with community colleges with large Latino student enrollment to enhance science and mathematics preparation, and to improve transfer rates into science-oriented programs at four-year institutions.

4. Develop and implement a post-baccalaureate program for Chicago-area Latino students.

5. Work with the Board of Education, and Local School Councils to design a curricular program that emphasizes preparation for the health professions and implement the design at schools where Latinos constitute the majority of the student body.

In terms of biomedical and clinical research:

1. Expand resources available for student research, both during the summer and possibly extend support to year-around projects in conjunction with individual departments in the College of Medicine.

2. Provide research opportunities to students by engaging in collaborative agreements with clinics that serve a predominantly Hispanic patient population. Students would work with physicians on site on a variety of projects relating to public health and disease-specific issues.

3. Organize a network of Latino health researchers who would not only provide opportunities for students to work on various projects but also would serve as mentors and role models.

4. Develop teams of researchers, both Latino and non-Latino, to tackle specific research issues that pertain to salient problems for the Latino population; involve students in these teams as integral part of the process of definition and implementation of individual projects.

Some objectives in health outreach services;

1. Involve students at all levels (from elementary to medical schools) in the development and dissemination of health education materials targeted to the Latino community.

2. Work with agencies in the metropolitan area whose purpose it is to provide health services of any kind to Hispanics. Engage students in working with those agencies in projects that benefit the Latino population.

3. Support health fairs and similar health awareness events and programs; participate in campaigns that target specific health issues such as immunization, blood pressure, and cholesterol screenings, etc.

4. Coordinate these initiatives with the University Hospital and Clinics, where Hispanic utilization of services continues to grow.

Finally, regarding health policy-making the ideal thrust would be engaging students (undergraduate and medical) in activities at the state and federal levels. The medical school curriculum does not present much information to students in this realm, although the impact of federal policies has far-reaching implications for the work of individual physicians. It is difficult to ascertain, at this initial stage of development, what general direction the HCOEs should follow in this regard.

CONCLUSION

The recommendations above provide a synopsis of a model which given the appropriate conditions, would permit the Federal government, through the Department of Health and Human Services, to make a definite, positive impact on the health status of Hispanic Americans. At this point the major concern among those of us in health professions schools is the trend within DHHS to dilute the Centers of Excellence initiative by spreading limited funding among large numbers of recipients, thereby not allowing the already established centers to achieve their promise. This approach will prove detrimental for the progress of Hispanics in the health professions since it encourages piecemeal strategies to deal with what has become a monumental problem; one that requires a bolder method of targeting programs which have proven successful in the past.

Jorge A. Girotti, Ph.D.

CHICAGO, IL, MAY 1992.

GENERAL ASSEMBLY, STATE OF ILLINOIS,
SPRING 1989

To the honorable members of the 86th General Assembly:

The Joint Committee on Minority Student Access to Higher Education was created by Senate Joint Resolution 72 on June 1987, and its work was continued with passage of Senate Joint Resolution 130 on July 1, 1988.

The Committee was established for the purpose of analyzing:

(1) The Chicago public schools' college preparation programs and course offerings.

(2) Their relationship to the proposed Illinois Board of Higher Education's increased undergraduate admissions requirements proposed to be implemented by 1993.

(3) The Illinois Educational Partnership Act, and

(4) The transfer rates of minorities from Illinois community colleges to four year institutions.

Pursuant to SJR 72 and 130, the committee conducted six public hearings. This report results from those hearings and subsequent committee deliberations.

As we enter the 1990's, Illinois' institutions of higher education face the growing challenges of preparing our future workforce. All Illinois children must be prepared in the years to come to meet the changing trends of the economy.

In order to ensure that minorities are better prepared to succeed in the workforce of tomorrow, Illinois institutions of higher education, the General Assembly, the business community, and primary and secondary local schools must exert leadership and pool their resources to reach out to minority communities.

The analysis and recommendations in this report offer a comprehensive approach to finding solutions.

This report was approved by the Committee on May 24, 1989 by unanimous vote.

Respectfully submitted,

MIGUEL DEL VALLE,
State Senator, 5th District.
ELLIS LEVIN,
State Representative, 5th District.

EXECUTIVE SUMMARY

The increased course standard requirements, as approved by the Illinois Board of Higher Education (IBHE), were unreasonable from their inception. Despite full agreement with the IBHE on the need for tougher college entrance requirements to improve the quality of the entering freshman, the committee agrees, based on testimony provided, that IBHE's proposal and implementation of the new requirements is seriously deficient.

First, the majority of the high schools in Chicago (47 to 64) do not adequately offer the courses to meet the requirements, and will be unable to offer these courses without substantial new revenue. Second, the new requirements improperly demand course offerings that are inappropriate for vocational schools, find arts academies, and schools with agricultural curriculae.

The committee supports the concept of increasing college entrance requirements. It is in everyone's best interest, including that of the minority community, to better prepare children for higher education and the workforce. However, it is clear that no new course pattern requirements should be mandated until these deficiencies are adequately addressed.

The state must ensure that no student be denied access to higher education due to the inadequacies that exist in inner city, rural, vocational, agricultural and some suburban high schools. Given the lack of resources for the state's high schools, the committee opposes the IBHE's implementation of increased course pattern requirements until such time as the State Board of Education certifies that all high schools in the state are offering the classes to meet these requirements. There should be a measure of flexibility in the standard to accommodate the diversity in high schools throughout the state.

Minority programs have been severely under-funded. Five percent of all new funds (for the next ten years) appropriated by the General Assembly for higher education should be allocated to minority programs and other services that enhances minority students access and retention. Increased funding of these programs must be a priority. A separate line item should be established in the IBHE budget for recruitment and retention programs.

Illinois universities' record of hiring tenured and non-tenured minority faculty is poor. This is a very complex problem to remedy due to the governance structure of academia. Yet, its resolution must have high priority.

The availability and adequacy of financial aid has become the single most important factor in minority student access and retention to Illinois colleges and universities. The committee recommends full funding of the Illinois State Scholarship Commission (ISSC), specifically for the Monetary Award Program (MAP). The ISSC must be more flexible and responsive to the needs of minority students.

Leading authorities in higher education must take a more aggressive role to improve minority access and retention by assuming ownership of the problem and identifying solutions, assigning high level institutional priority to minority scholarship funding and institutionalizing academic support programs.

A legislative oversight committee must be established to monitor programs that increase minority access and retention in Illinois public colleges and universities. The oversight committee would provide guidance and support through hearings, recommendations and follow-up on the progress of minority student program implementation and initiatives stemming from this report. The oversight committee can also review data collected by the governing boards of higher education, and study the budget requests submitted by the IBHE and institutions to the General Assembly.

The IBHE should develop a process by which uniform guidelines for all public institutions of higher education are to be established with regard to the recruitment and retention of minority students. Through the establishment of an Office of Minority Affairs, the IBHE will be able to assist all public institutions of higher education in their efforts to recruit and retain under-represented minority students, as well as perform other related activities outlined in this report.

Through partnership building, four year institutions and two year colleges should improve their articulation programs to increase transfer rates for all students, including minorities. To better inform and prepare students, community colleges should establish "transfer information centers" on and off campus, which are accessible to minority students. Such a program exists in California (as presented to the committee).

A partnership should be established between the business community and higher education to create opportunities and resources for minority students such as off-campus work study in the private sector, corporate college savings plans for disadvantaged children and others. At the committee's meeting with Chicago United business leaders in Chicago it was recommended that

the establishment of such partnership is sorely needed.

MINORITY STUDENT ENROLLMENT AND RETENTION IN HIGHER EDUCATION

African-American and Hispanic students are under-represented in institutions of higher education. An analysis of the Illinois Board of Higher Education's 1988 Report on Minority Student Participation in Illinois Higher Education indicates that African-American and Hispanic students are not represented in institutions of higher education in relation to their population or in relation to their enrollment in elementary and secondary education. The following information from the report highlights the status of minority student enrollment in higher education. (See Appendix 2.)

SUMMARY OF INDEX NO. 2—TABLE A: CURRENT REPRESENTATION

African-Americans comprised 15.1 percent of Illinois' estimated 1985 population and 22.8 percent of the 1st grade population in 1987, but made up 10.8 percent of public university enrollment, 13.2 percent of private college enrollment and 14.7 percent of community college enrollment.

Hispanics comprised 6.5 percent of the estimated 1985 population and 9.7 percent of the first grade population in 1987, but made up only 3.2 percent of public university enrollment, 5.2 percent of private college enrollment and 6.9 percent of community college enrollment.

African-American and Hispanic enrollment generally decreases at each successive level of education from 1st grade to 9th grade to 12th grade and on through under-graduate and graduate/professional education.

African-American and Hispanic student enrollment is proportionately higher in community colleges than in public or private institutions.

African-American and Hispanic student retention is a problem. African-American students comprise 10.8 percent of the public undergraduate enrollment, yet account for only 6.3 percent of those receiving bachelors degrees.

SUMMARY OF TABLE 8: TRENDS IN UNDERGRADUATE EDUCATION

Trends for Hispanic and African-American students differ. Over the past four years, African-American student enrollment has decreased at community colleges, has remained stable at public universities although there was a decline in 1987, and increased at private institutions, although the numbers and proportions of bachelors degrees awarded decreased.

According to the University of Chicago Metropolitan Report "Declining Minority Access to Higher Education," since 1980, Hispanic enrollment in public universities in Chicago has fallen by 10 percent, and by 11 percent in both private colleges and universities.

Hispanic enrollment has slightly increased in most areas of enrollment and awarding of degrees, but is still below representation. Statewide, enrollment increased at public universities and community colleges, although there was a decrease in 1986-87.

African-American and Hispanic students continue to be under-represented as recipients of bachelors degrees (Tables 2A and 2B). The proportion of students receiving bachelors degrees decreased for African-Americans and increased for Hispanics.

Over the last nine years, the proportions of African/American students receiving bachelors degrees in education have decreased, while there have been increases in computer and information sciences. In engineering and in the biological and physical sciences, African-American representation remains very low.

Hispanics showed increases in receiving bachelor degrees in the fields of biological and physical sciences, business management, computer and information sciences, engineering, health professions, and psychology and social sciences, although representation in these fields remains very low.

According to the University of Chicago Metropolitan Report: "Declining Minority Access to Higher Education," since 1980, African-American enrollment at the University of Illinois at Chicago decreased by 48%.

MINORITY STUDENT PROGRAMS

Testimony

Minority student programs are the foundation for improving student retention and enrollment. These programs usually serve as centers which provide student academic and cultural support, as well as the overall guidance that enhances the student's success in higher education. Unfortunately, inadequate state funding and the lack of institutional commitment to mainstream these programs has resulted in critical under-staffing and limited delivery of services.

Numerous institutions presented testimony on the need to expand funding and plans to increase minority student enrollment and retention. Although these plans deserve merit for attempting to address the problem, the lack of financial support for these programs on the part of the same institutions poses a major obstacle in achieving their goals.

The Illinois Board of Higher Education, in its FY 1989-90 budget request, recommended a $305 million increase in General Revenue Funds (GRF) for state support of higher education. Of this, only $3.2 million, or 1 percent of the total would be allocated to minority programs.

In turn, the Governor's proposed 1989-90 budget requests $110 million in new funding, which is $185 million less than IBHE requested. Minority programs would only receive approximately $1.3 million of new funding.

Overall, since 1983 higher education spending through GRF increased by 34.4 percent. Although this level is insufficient to meet the needs of higher education, it should be noted that it appears funding for minority programs has not increased at all.

There are numerous excellent programs in higher education which have done a commendable job in recruiting and retaining minority students. The General Assembly, as well as the institutions, needs to substantially increase funding for the expansion of minority student programs.

RECOMMENDATION

IBHE should request that five percent of all new higher education funds should be allocated for minority student programs and services in its annual budget request to the General Assembly.

IBHE should create separate line item budget request to the General assembly for minority recruitment and retention programs.

HIRING MINORITY ADMINISTRATORS, FACULTY AND COUNSELORS

Role models are very important in the educational process, especially for minority youths from low income families who are often confronted with large, predominantly white institutions, unfamiliar surroundings, inadequate support services, and an environment sometimes perceived or actually hostile toward minorities.

Lack of minority staffing at all levels of higher education was evident in the testimony. More must be done by the institutions to attract minorities. Minority faculty should be trained and promoted for administrative posts. Aggressive recruitment campaigns should be initiated, and one way to identify prospective candidates is by establishing a curriculum vitae bank with the IBHE. The bank would maintain curriculum vitaes from throughout the country which would be accessed by Illinois institutions.

The Office of Affirmative Action or its equivalent at every public institution should be a part of all search and screen committees for administrative and faculty hirings. The Affirmative Action office would certify whether or not all affirmative action guidelines were utilized and if attempts were made to recruit minorities.

Testimony indicated that some private universities have increased minority faculty and counselor hirings by adding department positions designated as minority positions. These universities have generally found many highly qualified minority candidates for their positions.

Also, faculty members are often burdened with dual responsibilities of administering a minority program, meeting their teaching responsibilities and providing student support services. Often minority faculty are adversely affected in the tenure process, because their research time is decreased by all of these responsibilities.

The Tables below provide an overview of minority hiring in Illinois institutions of higher education in 1985.

TABLE 1.—FALL 1985 FULL-TIME EMPLOYEES BY RACE/ETHNICITY AND SYSTEM EXECUTIVE/ADMINISTRATIVE/MANAGERIAL

	White	African American	Hispanic	Asian	Native American
Board of Governors	419	68	13	5	4
Board of Regents	310	22	4	5	0
SIU	434	31	3	11	1
University of Illinois	932	89	7	26	3
System total, 2,387	2,095	210	27	47	8
Percent	88	8.8	1.1	2	.3
City College, Chicago, system total, 187	90	81	12	3	1
Percent	48.1	43.3	6.4	1.6	.5
Community colleges system total 3,427	2,973	336	46	60	12
Grand total, 6,001	5,158	627	85	110	21
Percent	86	10.4	1.4	1.8	.35

Source: State Board of Higher Education, "Statistical Report of Female and Minority Employment in Higher Education, Fall 1985," July 1986.

TABLE 2.—FALL 1985 FULL-TIME EMPLOYEES BY RACE/ETHNICITY AND SYSTEM TOTAL FACULTY

	White	African-American	Hispanic	Asian	Native American
Board of Governors	1,500	153	38	90	2
Board of Regents	1,960	54	22	100	4
SIU	1,471	38	14	101	2
University of Illinois	3,859	93	73	392	10
System total, 9,976	8,790	338	147	683	18
Percent	88	3.4	1.5	6.8	.2
City College, Chicago, system total, 1,229	790	338	24	76	1
Percent	64.3	27.5	1.9	6.2	.08
Community colleges system total, 4,128	3,888	153	33	43	11
Percent	94.1	3.7	.8	1.0	.27
Grand total, 15,333	13,468	829	204	802	30
Percent	88	5.4	1.3	5.2	.2

Source: State Board of Higher Education, "Statistical Report of Female and Minority Employment in Higher Education, Fall 1985," July 1986.

OFFICE OF MINORITY AFFAIRS OF THE IBHE

Testimony

The committee received testimony describing several programs in Illinois currently in place that, although limited in scope, are nonetheless innovative and effective in their efforts to attract, retain and graduate minority students. Unfortunately, these programs most often seem to be isolated from the rest of the institution and from the community of higher education as a whole.

Recommendation

By establishing the Office of Minority Affairs at the IBHE, a major initiative will be undertaken to coordinate university recruitment and retention efforts through a centralized, comprehensive mechanism that standardizes university efforts. This office would incorporate programs tested and found to be successful in Illinois and in other states.

The office would establish statewide uniform guidelines adopted by the IBHE and implemented by all public institutions on minority student recruitment and retention. Its policy will include procedures for centralizing information on all existing high school placement programs, community agency outreach, and campus remedial programs.

This office would reflect a renewed commitment and a call for action to address the status of minorities in our public universities. It would create specific goals and objectives, as well as a timetable by which these achievements are to be met. The model would also include a comprehensive evaluation of programs that service minority students to ensure efficient programming.

The Office of Minority Affairs would be responsible for carrying out the following tasks:

Assist all public institutions of higher education in their efforts to recruit under-represented students.

Develop and oversee the implementation of comprehensive recruitment and retention programs at each public university and community college system.

Develop policy pertaining to recruitment and retention.

Centralize data collection on recruitment and retention efforts.

Establish uniform data collection systems and form on minority students in higher education.

Conduct an annual evaluation (report card) on each university system and institution.

Report to the Governor and the General Assembly pursuant to P.A. 85-281.

Assist in the development of peer counseling programs.

Work with the private sector to identify areas of funding for scholarships, community outreach and employment.

Help facilitate recruitment for graduate programs.

Assist with minority administrative and faculty hirings.

USE OF "HARD MONEY" TO SUPPORT MINORITY STUDENT PROGRAMS

Testimony

The committee noticed a troubling pattern in presentations made by top level administrators of Illinois institutions of higher learning. There is a tendency to support minority student programs with "soft money" rather than through institutional budget allocations, or "hard money." "Hard money" refers to the general operating funds while "soft money" refers to programs receiving special allocations, grants or funds from outside sources. A good measure of an institution's commitment to expand minority student access and retention is its willingness to budget state funds appropriated by the General Assembly to programs specifically designed for those purposes. In part, "hard money" ensures continued funding for programs.

Recommendation

The Illinois Board of Higher Education should expand the use of institutional dollars to support minority recruitment and retention programs. Institutional funds should supplement minority programs.

The committee's hearings also highlighted the importance of awarding graduate, teaching and research assistantships to minority students. These assistantships offer minority students the opportunity to pursue education without incurring major financial commitments for tuition and other costs. Assistantships also allow minority students an important opportunity to associate with faculty and to learn the university system by participating in it.

RACIAL TENSION AND DISCRIMINATION ON CAMPUS

Testimony

The most alarming charges brought before the committee were the allegations of discrimination and increased racial tension on some state campuses. Racial tension appears to be growing in some Illinois institutions of higher education, and it has created an atmosphere non-conducive to the learning environment and to the retention and recruitment of minority students.

There has been an increase in reports of harassment, racial slurs, distribution of racist and anti-semitic literature (at Northern Illinois University) and other campuses. The absence of top level minority administrators on many campuses has created frustration, as evidenced by the testimony at the Northern Illinois University campus, in which students called for minority hirings of top level administrator and staff positions.

Recommendations

Require race relations instruction in the general education requirements of all programs leading to bachelor's and associate of arts or science degrees. This can be accomplished by offering initial instruction through existing coursework, and subsequently, through a separate course. The IBHE would be responsible for developing, budgeting and monitoring the establishment of the curriculum.

Increase the penalties for racial, ethnic and religious crimes committed on college campuses, if needed.

Require institutions of higher education to automatically report all cases of racism and discrimination to the Illinois Department of Human Rights and the Attorney General.

Require the universities' Office of Affirmative Action to verify in writing whether or not all efforts were made to hire minority staff for all new administration and faculty hirings, and if affirmative action guidelines were employed. This information should be submitted to the president of the institution for inclusion in the annual report of the Illinois Board of Higher Education to the Governor and the General Assembly on Underrepresented Students in Higher Education, pursuant to P.A. 85-281.

Promote culturally diverse activities on campuses which reflect the multicultural make-up of the different groups in the United States.

ANALYSIS OF THE ILLINOIS BOARD OF HIGHER EDUCATION'S FISCAL YEAR, 1990 BUDGET REQUEST AND THE GOVERNOR'S PROPOSED FISCAL YEAR 1990 HIGHER EDUCATION SPENDING

The Illinois Board of Higher Education recommended a $305 million increase in General Revenue Funds (GRF) for state support of higher education for FY 90. The current level of funding in GRF is $1.341 billion or only $16 million (1.2%) above the funding level of FY 87. The lack of state support for higher education has caused sharp tuition increases in the past two years and under-funding or elimination of critical programs.

HIGHER EDUCATION

[In millions of dollars]

	Actual fiscal year 1987	Actual fiscal year 1988	Actual fiscal year 1989	BHE fiscal year 1990	Gov. fiscal year 1990
IBHE request:					
GRF[1]	1,327,102.8	1,267,591.3	1,341,662.6	1,646,689.4	1,462,084.3
Other[2]	243,271.0	283,626.5	326,106.6	331,811.2	331,828.7
Total	1,570,373.8	1,551,217.8	1,667,769.2	1,978,500.6	1,793,913.0

[1] General Revenue Fund.
[2] Primarily tuition.

The Illinois Board of Higher Education argues that the $305 million increase cannot be appropriated without additional new revenues by the state. Coupled with a $404 million increase requested by the State Board of Education for elementary and secondary education, the education system is requesting a $709 million increase above the FY 89 level. Total state revenues are expected to be about $500 million above FY 89 in FY 90 from natural inflationary revenue growth.

While the IBHE and many public institutions of higher education publicly bemoan the decline of minority student enrollment in higher education, IBHE does not fulfill its obligation to expand minority programs by requesting only a one percent increase in its FY 90 budget.

This funding request of an additional $3.2 million for minority programs is insufficient at this time, given the need to increase minority student enrollment and retention, and to expand minority student programs and scholarships.

HIGHER EDUCATION TOTAL FUNDING

[In millions of dollars]

	Fiscal year 1983	Fiscal year 1984	Fiscal year 1985	Fiscal year 1986	Fiscal year 1987	Fiscal year 1988	Fiscal year 1989	Fiscal year 1990
GRF	998.5	1,057.8	1,121.8	1,246.7	1,327.1	1,267.9	1,341.7	1,646.7
Other	216.6	238.2	301.8	350.2	399.1	449.4	485.7	331.8
Total	1,215.1	1,296.0	1,423.6	1,596.9	1,726.2	1,717.3	1,827.4	1,978.5

Since 1983, state general revenue funding for higher education has increased by 34.3%. This amounted to an average increase of 4.9% per year if it is not compounded each year. Although there has been a small amount of growth in state support for higher education, nevertheless there has been some growth. It would appear that funding for minority programs has not increased at all. Line-item spending is non-existent in university budget requests to the General Assembly, therefore statistics are not available to indicate increased spending for minority programs.

It is incomprehensible that neither the Board of Higher Education nor the individual universities can detail the amounts actually expended for specific minority programs.

The IBHE must take a fiscal leadership role in addressing minority enrollment and retention by requesting increased funding for minority programs in FY 90 and subsequent budgets, as well as by expanding minority recruitment and retention efforts with existing allocations.

Unless new revenue is generated by the state, education probably can expect the same funding crunch in FY 90 as we have seen during the past several fiscal years.

The implications of low funding levels in higher education are widespread and devastating for minorities and other lower socio-economic groups. Minority programs have not grown in numbers, quality, or effectiveness as evidenced by declining minority enrollment and retention.

According to the IBHE funding plan, if the requested $305 million increase in state funding for FY 90 is approved, minority programs will grow by $3.2 million or only one percent of the new revenues. Yet this budget request includes $120 million for salary increases of ten percent for personnel on top of a seven percent increase just recently awarded. While one percent goes for specific minority programs 40% goes to salary increases. IBHE has stated, as it did last year, that salary increases are the primary budget concern over the next three years. If less than a $120 million increase is approved for higher education in FY 90, most of it again will be directed to salary increases. Last year higher education received a $65 million increase ($250 was requested) and two-thirds of it went for salary increases while no new programs were implemented anywhere.

CONCLUSION

A comprehensive, multifaceted approach must be undertaken by Illinois' institutions of higher education to address the myriad of issues involving minority student participation and success in higher education. This approach must take into account changing trends and socio-economic needs of minority students.

Mandated increased requirements for college entrance cannot be implemented across the board at this time without adversely impacting students across racial, ethnic and geographic boundaries, due to the lack of available resources.

With renewed commitment and vigor on the part of all educational institutions, increased higher education funding and involvement on the part of all educational institutions, parents, the General Assembly, community colleges, agencies, and the private sector, Illinois can take its place as a leading state on minority achievement in higher education.

Equally important as full funding for minority higher education programs, is the institutional commitment to open the doors of opportunities for minority students, faculty, staff and communities through internal advocacy and promotion of equal opportunity and access.

The economy and jobs market leading into the 21st century will require higher educational and technical training levels of its workforce. The alternative is unthinkable.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received a request for a determination under rule 35 for Rick Carnell, a member of the staff of Senator RIEGLE, to participate in a program in China, sponsored by the United States-Asia Institute and the Chinese People's Institute of Foreign Affairs, from August 15–September 1, 1992.

The committee determined that participation by Mr. Carnell in this program, at the expense of the Chinese People's Institute of Foreign Affairs is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Leslie Tucker, a member of the staff of Senator SIMPSON, to participate in a program in China, sponsored by the Far East Studies Institute and the Chinese People's Institute of Foreign Affairs, from August 15–September 1, 1992.

The committee determined that participation by Ms. Tucker in this program, at the expense of the Chinese People's Institute of Foreign Affairs is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Senator and Mrs. SIMPSON, to participate in a program in Turkey, sponsored by the Turkish-American Businessmen's Association of Izmir and the American-Turkish Friendship Council, Incorporation, from May 25–30, 1992.

The committee determined that participation by Senator and Mrs. SIMPSON in this program, at the expense of the sponsors, was in the interest of the Senate and the United States.●

THE PRESIDENT'S PROPOSED CREDIT AVAILABILITY AND REGULATORY RELIEF ACT OF 1992

● Mr. RIEGLE. Mr. President, I rise to discuss President Bush's proposed Credit Availability and Regulatory Relief Act of 1992.

A. INTRODUCTION

President Bush sent this proposed legislation to the Congress on June 24. In the executive communication that accompanied the bill, he had several things to say about it.

The President said that the bill would reduce regulatory burdens on depository institutions. On page 1 of his statement, he said "[t]he regulatory burden on the Nation's financial intermediaries has reached a level that imposes unacceptable costs on the economy as a whole."

And on page 2, he said "I would like to emphasize that none of the bill's provision will compromise in any way the safety and soundness of the financial system."

And, also on page 2, he said "the prompt corrective action framework mandating swift regulatory responses to developing institutional problems will remain unchanged."

These statements are not true.

B. SUMMARY OF THE BILL

Let me describe what the President's proposed legislation really does. My colleagues should know what an extraordinary bill this is.

We are in the middle of the worst banking crisis since the Great Depression. But the President's latest response to that crisis is to promote forbearance on failing institutions and elimination or weakening of various safeguards against unsound or fraudulent activities—provisions he personally agreed to and signed into law just last December.

Earlier this summer, we had the worst urban riots in a generation. Those riots came only a few months after the Federal Reserve released the first comprehensive data on lending discrimination, data showing that

lending discrimination is a reality for millions of Americans. That is wrong and must be corrected. But the President's response—to weaken the Community Reinvestment Act—would be a stunning reversal in policy.

But the President's bill would be even more harmful. It would weaken important consumer protections, eliminate reporting requirements that promote better understanding of our banking system and our economy, and eliminate requirements for annual, onsite examinations by Federal banking examiners of our Nation's banking system. Annual, onsite examinations by Federal examiners are a cornerstone of the reforms enacted just months ago. I cannot imagine the President is even aware of this proposal being offered in his name.

Time does not permit me to go into every provision of this bill, but I want my colleagues to know about the bill's key features.

C. ANALYSIS OF ANTI-SAFETY-AND-SOUNDNESS PROVISIONS

Let me start by reviewing the provisions of the President's proposal that undermine safety and soundness in the financial system.

Put bluntly, this bill takes some of the core provisions of last year's banking bill, the FDIC Improvement Act, passed just last December—reforms that the administration then supported, and that the President himself signed into law—and guts them. Not entirely—it leaves in place the part where the American people loan tens of billions of dollars to the banking industry—but it scraps many of the key reforms needed to protect that taxpayer loan and ensure that it will be repaid on time and in full.

1. PROMPT CORRECTIVE ACTION

I'll start with prompt corrective action.

The prompt corrective action provisions of last year's bill are simple common sense. They say, in effect: "Regulators, you should act earlier and more aggressively when a bank or thrift begins to get into trouble. Get in there, correct the problems, and turn the place around, if you can. And if you cannot, sell the place, or close it down, before it becomes a loss to the deposit insurance system and a liability to the American people."

That's the gist of it. Tackle each problem early, while it is manageable, before together, they get out of hand and create a systemic risk to the entire banking structure.

The administration supported these reforms last year. The banking industry supported them. All the academics and public interest groups supported them.

The President says his bill would not modify these reforms. He's wrong. Section 115(b) of his bill would delay the effective date of the prompt corrective action requirements for a full year—until December of 1994.

What could do more damage to a requirement for prompt corrective action than delay? In effect, the President has proposed to delay dealing with the banking problem for a full year. Taxpayers lend to the banks now. Banks face up to their problems later.

Recent history can tell us a lot about what the consequences of this delay would likely be. We tried this approach for almost an entire decade. All through the 1980's, regulators delayed closing failed savings and loans with the acquiescence of the President and Congress.

The American people have paid dearly for this policy of delay. According to a report issued by the Congressional Budget Office last year, the costs of that delay came to some $66 billion, not counting the interest payments we will be making for the next generation. Mr. President, I ask unanimous consent to include a copy of that report in the RECORD at the conclusion of this statement.

(See exhibit 1.)

We have a commercial banking problem here and now. For the sake of America's taxpayers—for the sake of America's future economic vitality—we should deal with it here and now.

2. PROMOTING TOO-BIG-TO-FAIL

The President's bill would also promote the old "too-big-to-fail" policy by eliminating the requirement that the Federal Reserve set limits on how much banks can endanger themselves, through interbank deposits that expose them to the weaknesses of other banks.

The President, in his Executive Communication, characterized last year's bill as requiring the Federal Reserve to "write detailed 'bright line' regulations on the amount of credit one depository can extend to another."

The President is wrong when he says this is what Congress legislated last year. Let me read you the text of last year's bill. This is from section 308:

> The Board shall, by regulation or order, prescribe standards that have the effect of limiting the risks posed by an insured depository institution's exposure to any other insured depository institution.

This does not require detailed, bright line regulations. It is a grant of broad authority to the Federal Reserve. The Fed can exercise that authority by regulation. It can exercise it by order, on a case-by-case basis.

What last year's banking bill did in this area was say, in effect: "Federal Reserve, Congress has identified a problem and you must fix it." We left it virtually one hundred percent up to the Fed to decide how the fix should work.

Now, maybe the President thinks the problem section 308 addresses isn't a real problem. If so, he's been getting some bad advice. I have previously put in the RECORD a scholarly article that explains the problem in some detail. Anybody with the slightest doubt about how interbank exposure is the heart of too-big-to-fail should read that article, which appears at pages S9978–87 of the CONGRESSIONAL RECORD for July 20.

The easiest way to understand the issue is to think back to how the too-big-to-fail policy got started. It was the Continental Illinois failure, back in 1984. There is still some debate about what the true story is, but one generally accepted version goes about like this: Continental Illinois got into trouble and the regulators were going to let it fail. Then somebody noticed that hundreds of small banks had all or more than all of their capital tied up in deposits at Continental Illinois. Let Continental go down and you bring down a lot of the system with it. So they bailed out Continental to keep the system alive.

Now, as I said, there's some debate about what really happened in the Continental case. Maybe we'll never know why or how the too-big-to-fail policy really got started. But if the story I just told didn't happen in Continental, it could easily happen today. Because the banks that are in trouble today—notwithstanding occasional administration statements to the contrary—include some of our very biggest banks, the banks where other banks also bank.

Now I hope we never see the day that one of those big banks starts to topple. But if that day comes—and it could—and we haven't taken appropriate steps to ensure that that bank's collapse does not jeopardize the rest of the banking system, the deposit insurance system and the American people will pay a terrible price for our neglect.

So that's the problem we addressed in section 308—a section the President's bill would repeal outright.

Now reasonable minds might differ about whether section 308 is the best way to deal with the problem. The administration did not address the problem at all in its bill last year. I would have listened very carefully if, at any step of the way, the administration had proposed its own approach to deal with this problem. But that never happened. They proposed nothing at all, and the administration never opposed section 308, to my knowledge. They just kept silent on the issue. So Congress crafted its own provision. I introduced this provision on March 5, 1991. Some 16 days of hearings followed its introduction. We consulted with the Federal Reserve. We consulted with representatives of the banking industry. We did not attempt to micromanage. We gave broad discretion to the Federal Reserve. We took a reasonable approach, and my mind is still open to other reasonable approaches. But in one form or another a safeguard is needed in this area—and one now exists and should be retained.

One thing is clear. For the President to propose to repeal section 308 alto-

gether, without proposing an alternative, is not a reasonable approach to this very real problem.

3. PROMOTING INSIDER LENDING

The President's bill would also undermine key provisions of last year's banking bill that restrict insider lending at federally insured depository institutions.

My colleagues are all aware that the banking industry has been very critical of these provisions. We're all hearing a lot about what an unnecessary burden they are—how nobody will be willing to sit on a bank's board of directors if these limits remain in force.

Well, limits on insider lending are not an unnecessary burden. They are basic common sense. And the limits in last year's bill responded to a very real problem that our regulatory agencies were not addressing on their own. Anybody who has forgotten about that problem should review some of the articles that came out after Madison National Bank failed.

Mr. President, I ask unanimous consent to insert in the RECORD at the conclusion of my statement copies of some articles that appeared last year in the Washington Post and the New York Times, concerning abusive insider transactions at Madison National Bank, and a copy of a Post editorial on this subject that appeared this spring.

I am confident most Americans would agree that anyone who would demand—as a condition of serving on a bank's board of directors—that the bank should lend more than 100 percent of its capital to members of its board and other insiders is somebody who probably shouldn't be on the board in any event. And that is the limit we passed last year: a bank should not lend more than 100 percent of its capital to insiders.

President Bush's bill would weaken that limit in several respects. First, it would let banks with less than $100 million in deposits lend up to 200 percent of their capital to insiders. Where is the evidence that such an exception is necessary or appropriate or consistent with safety and soundness? I know of no such evidence.

Second, the President's bill would give the Federal Reserve broad discretion to make exceptions to the limit.

Recently, Federal Reserve Chairman Greenspan complained about limits on insider lending at a bank structure conference in Chicago. Governor LaWare also complained about these limits last month in testimony before the Banking Committee. My sense is that they just reject out of hand the whole notion that additional limits on insider lending are needed. If they were given broad discretion here, I have concerns as to how they would use it. Certainly, you can count on this: the Fed would be inundated with requests that it exercise its discretion. I see no useful purpose in setting those events in motion.

4. AUDIT REFORMS

The President's bill also takes direct aim at the audit and accounting reforms enacted last December.

It deletes the requirements that independent public accountants attest to management assertions regarding the effectiveness of internal controls, procedures for financial reporting, and compliance with regulations relating to safety and soundness.

It relieves audit committees of the duty to review the basis of independent accountant reports on internal controls and compliance.

It allows the Federal banking agencies to designate as "privileged and confidential and not available to the public" information that last year's audit reforms required be made public.

And it defers implementation of the few surviving auditing requirements of last year's bill for an entire year, until January 1, 1994.

Now these audit reforms weren't just some hare-brained notion. They were crafted to reflect years of study by the General Accounting Office, careful analysis of what went wrong at dozens and dozens of failed banks and thrifts, numerous reports, and many hours of expert testimony. And the sum and substance of all that effort is this: insured banks and thrifts fail when their internal controls fail. So if we want to be on top of the problems at insured depository institutions, where taxpayers' money is now at stake, we must be on top of the state of their internal controls.

Again, reasonable minds could probably differ over the best way to go at this problem. But there is no doubt that here, too, Congress faced a genuine public policy problem and enacted a policy to solve it. It is wrong for the President to urge that we go back to the old lax practices that helped cause the problem in the first place.

D. ANALYSIS OF ANTICONSUMER AND ANTICOMMUNITY PROVISIONS

The President's proposal also would weaken laws that protect our communities and consumers against abuses.

1. COMMUNITY REINVESTMENT ACT

Hot on the heels of the Los Angeles riots and less than a year after the Federal Reserve released, for the very first time, comprehensive data showing just how pervasive discrimination in lending really is, the President's bill would virtually destroy the Community Reinvestment Act.

Let me explain how.

First, it essentially exempts most rural banks from the requirements of the Act. Any rural bank with assets of under $100 million simply writes to its regulator and states that, in its own opinion, it deserves a CRA rating of satisfactory or outstanding. Self-certify that you have an adequate CRA record and you bypass the CRA examination and evaluation process completely. And you can keep bypassing it year after year after year, forever.

The only justification I know of for this kind of special treatment is that rural banks want it. I don't think that's enough. I've never seen a study that suggests redlining doesn't go on in rural communities. I don't know anybody who would seriously argue that rural poverty isn't a real problem. Maybe there are better ways to address the community reinvestment issue. My mind is open to that, but there is no alternative proposed in this bill.

The second thing the President's bill would do is provide a safe harbor from CRA protest for all banks that have received outstanding CRA ratings. Get an outstanding rating and you are no longer subject to any CRA protest. This is unnecessary. If a protest is filed in a given case, it should be evaluated on its merits. If an institution has received an outstanding rating, and truly warrants that rating, it should have nothing to fear from a protest.

The final thing to notice about the President's bill is that it directs the regulators who are conducting CRA evaluations and preparing CRA ratings to look favorably on investments made outside their own communities. This of course undermines the central premise of the Community Reinvestment Act: namely, that a financial institution should invest in the communities that invest in it. I commend the President's restraint in limiting this authority to investments in distressed communities, but I question this erosion of the Community Reinvestment Act's central tenet.

2. TRUTH IN LENDING ACT

Another thing the President's bill would do is seriously weaken the consumer protections of the Truth in Lending Act. Section 211(b) of the bill does this by limiting damages under the act to actual damages.

The practical effect of this amendment would be to make it far more difficult to recover enough through civil litigation to justify the cost of bringing suit. So there will not be as many suits. If the administration were vigorous in enforcing the consumer protection laws through the regulatory process, we would probably see far less litigation. But the sad reality is that civil litigation—and the threat of civil litigation—have become the primary enforcement mechanisms we have under this administration. The President is now attempting to weaken them, and this should not be done.

3. TRUTH IN SAVINGS ACT

The President's bill also takes direct aim at the Truth in Savings Act. Here, too, the approach his bill takes is to severely weaken its civil liability provisions, where the effect would be to seriously undermine compliance with the act.

Frankly, I am mystified and troubled by the intensity of the opposition this act has received from the banking industry recently.

There seems to be some perception that Congress, without need or notice, crafted the Truth in Savings Act in the dead of night and then ambushed the banking industry with it.

Nothing could be further from the truth. The Senate passed that bill three times, beginning in 1988, before it finally became law. The House also passed it several times.

The Truth in Savings Act responded to a real and growing problem. That problem was this: a lot of depository institutions were engaging in misleading advertising of their deposit rates. They would do things like advertise a rate of 6 percent, then pay that rate on less than 100 percent of your balance, so the rate you would receive as a consumer would actually be significantly less than the advertised rate. Some of our largest banks were doing this.

In my view, that sort of deceptive advertising verges on fraud. Congress should not have had to act to outlaw it because the industry and its regulators should never have permitted the practice in the first place. But since that didn't happen, Congress was fully justified in taking this step.

E. CONCLUSION

I haven't listed all the things this Administration bill does. There are many more provisions. A few of them are innocuous and relatively uncontroversial. Most, in my view, are ill-conceived and unsound.

Why has the President put his stamp of approval on this piece of legislation? He says it is to relieve burdens on banks. He says that all the regulations this bill would undo place excessive costs on banks.

We need to think about that assertion very carefully. I urge the President to think about it. I especially urge the banking industry to think about it.

Because bound up in this concept of excessive regulatory costs is a question: What are we buying with these costs?

The answer to that question is clear. We are buying a tremendous amount. Arguably, we are buying the very stability that makes it possible for the banking industry to survive its present crisis.

Let me remind my colleagues of two key facts.

First, the old deposit insurance system for banks didn't work and the insurance fund went broke.

Second, the American people have now put roughly $70 billion of their hard-earned money on the line to keep that system afloat—to say nothing of the hundreds of billions they are also paying to rescue the deposit insurance system for savings and loans.

Now we have a period of years for banks to strengthen themselves and repay the loan with higher insurance premiums.

We have maintained stability in the banking system, but there is a price for that stability. The revised and stronger deposit insurance system costs more than the old one that went broke—but no more so than is necessary to do the job properly.

The banking industry has only narrowly avoided a crisis of confidence that could easily have done far greater damage. And it is not out of the woods yet. Some people in the administration are trying to put out the line that the problem is now behind us. Well the chairman of the FDIC, Bill Taylor, does not think so, and he is in the best position to know. He testified before the Banking Committee on this subject just last month, and told us that we still have over a thousand banks, with over $600 billion in assets—20 percent of all the industry's assets—on the problem bank list. That number is growing, not shrinking. In fact, in the past 12 months, that number grew over 50 percent.

Those troubled banks and their troubled assets are the real problem. Last year's bill did not create that problem, it was an effort to solve it. And clearly, the President's bill undercuts that effort.

The American people are bearing tremendous burdens to preserve our deposit insurance system and, along with it, a stable operating environment in which banks and thrifts can continue to make money for bank shareholders. An entire generation of taxpayers will pay hundreds of billions to close failed savings and loans. In addition, they have now loaned tens of billions to close failed banks and they may have to loan tens of billions more. There remains a serious repayment risk.

Moreover, it is the American people, through ever higher monthly fees and minimum balance requirements, lower interest rates, and a variety of new charges that have crept into their banking transactions, who are paying for the banking industry's stability nickel by nickel and hour by hour.

Just a few weeks ago, the Comptroller General of the United States gave the House Banking Committee his views on this bill. Here is what he said:

The supervisory reforms that are now under attack do nothing more than encourage banks and their regulators to recognize the realities of sound banking in the current environment. It is unfair to call these reforms burdensome because there should be no burden for well-run banks.

I believe it would be a grave mistake to weaken the safeguards enacted to protect the financial integrity of the deposit insurance funds and, ultimately, the taxpayers. The regulatory lessons learned from the 1980s and the debacle of the savings and loan industry that consumed its insurance fund and presented the bill to the taxpayers must not be repeated. If the safeguards enacted by the FDIC Improvement Act are cast aside, then I believe the government is indeed setting the stage for another serious financial crisis for the deposit insurance funds and the taxpayers.

The Comptroller General has given us a powerful and important warning. We should heed that warning and not repeat past mistakes.

EXHIBIT 1

CBO STAFF MEMORANDUM—THE COST OF FORBEARANCE DURING THE THRIFT CRISIS

This memorandum was prepared by Philip F. Bartholomew under the supervision of Elliot Schwartz. Emily Kolinski and David Whidbee provided research assistance. Michael Crider, Kim Kowalewski, Thomas Lutton, Larry Mote, Sherry Snyder, and Bob Sunshine made substantial contributions to this memorandum. This analysis was conducted at the request of the Committee on Banking, Finance and Urban Affairs of the United States House of Representatives. It provides an estimate of the cost of delay in closing failed thrift institutions resulting from the policy of forbearance. In accordance with the Congressional Budget Office's mandate to provide objective and impartial analysis, the memorandum contains no recommendations.

SUMMARY

Several federal regulators of depository institutions recently have suggested that a policy of regulatory forbearance might be granted to currently troubled banks and thrifts. Regulatory forbearance would permit these troubled depositories to remain open. Regulators argue that these institutions are suffering temporary financial setbacks and that, given sufficient time, they will be able to restore themselves to sound financial condition. This same argument was made during the early part of the thrift crisis. The Congressional Budget Office estimates that this policy increased the eventual bill for resolving failed thrift institutions by about $66 billion (in 1990 dollars).

To estimate the additional cost incurred because of the policy of forbearance, CBO examined data for 1,130 thrifts that were either resolved during the period 1980 through 1990 or are projected to be resolved in 1991. Of these failed thrifts, 57 percent had become insolvent on a book-value basis by year-end 1984, and 80 percent had become insolvent by year-end 1987. Although the federal regulators were aware of the insolvency of these institutions at the time, it took an average of 38 months to close and resolve them from 1980 through 1990.

The cost of not closing thrifts when they first became book-value insolvent represents over half of the estimated $127 billion cost (in 1990 dollars) of resolving the 1,130 thrifts. Thus, forbearance may have doubled the cost of the thrift bailout. The average failed thrift deteriorated in value at an annual rate of 37 percent between the time it first became book-value insolvent and when it was closed and resolved by the Federal regulator.

INTRODUCTION

At year-end 1980, there were 3,993 thrift institutions with assets of $604 billion whose deposits were insured by the Federal Savings and Loan Insurance Corporation (FSLIC). By year-end 1990, the number of thrifts had declined to 2,342; the nominal value of their assets had grown to about $1 trillion.[1] Most of this consolidation came through government closure rather than voluntary merger. During this 10-year period, 842 thrifts were

NOTE.—All years are calendar years, unless otherwise stated.

[1] See tables A-1 for a detailed accounting of changes in the thrift industry from 1980 through 1990.

59-059 O—97 Vol. 138 (Pt. 14) 18

closed and resolved at a cost to the government estimated at the time to be $80.1 billion (approximately $85.4 billion in 1990 dollars) on a present-value basis.[2] At year-end 1990, 179 thrifts were in government conservatorships and 109 institutions were insolvent, judged by the book value of their tangible capital.[3] The Congressional Budget Office (CBO) projects that these 288 thrifts will be resolved in 1991 at an estimated cost of about $44 billion, or about $42 billion in 1990 dollars. Thus, the estimated cost of resolving these 1,130 thrifts exceeds $125 billion in 1990 dollars.[4]

FORBEARANCE

Forbearance is the discretionary practice of not enforcing an existing rule. In the 1980s, thrift regulators elevated forbearance to a general policy for the entire thrift industry—they did not close institutions when they became insolvent. Regulators did not violate statutes; rather, in altering agency regulations they interpreted those statutes in the most liberal way possible, thereby allowing themselves to avoid closing insolvent institutions.

In 1982, approximately 85 percent of all thrifts reported negative net income; 415 thrifts reported themselves to be insolvent on tangible basis (see Table A–1). Regulators initially responded to this problem by closing increasing numbers of insolvent thrifts. The number of annual thrift resolutions more than doubled between 1981 and 1982, from 28 to 63.

At the time, however, many observes argued that the thrifts' problems were temporary, brought on by high interest rates and deep recession. When interest rates declined, it was argued, and the economy recovered, thrifts would be able to regain solvency. Indeed, the industry as a whole experienced positive net after-tax income for the years 1983 through 1986. Net operating income, which measures the difference between interest earned on assets and interest paid on borrowing, was only slightly negative for the industry in 1983 and was positive and substantially improving for 1984 through 1986.

It was also anticipated that the Depository Institutions Deregulation and Monetary Control Act of 1980 and the Garn-St. Germain Act of 1982 would provide additional relief to the thrift by reducing regulatory burdens. Interest rate ceilings on deposits were phased out, and thrifts were permitted to engage in a wider variety of investment activities. Several states afforded their chartered thrifts more liberal investment options. Many observers thought that this regulation would allow thrifts to diversify that their investments and reduce the overall level of risk of risk of their portfolios.

The forbearance policy in part grew out of the recognition that the combined effects of economic recovery, lower interest rates, and statutory deregulations would take some time to affect the financial health of the thrifts. Thus, it was argued, regulators should not necessarily close troubled thrifts as quickly as strict accounting measures of solvency would indicate. Indeed, some thrifts benefited from this policy. Of the 212 thrifts that were tangibly insolvent in 1981, 16 were restored to solvency in 1982. Of the 415 thrifts that were tangibly insolvent in 1982, 51 were restored to solvency in 1983.

Another reason for granting forbearance was that the FSLIC did not have sufficient cash resources to close all insolvent institutions. Closure of all institutions that were tangibly insolvent in 1982 probably would have depleted the fund's cash. The required outlays for deposit insurance would have increased an already record federal budget deficit. Policymakers wanted to avoid asking taxpayers to foot the bill for FSLIC's losses, if the industry's problems were only temporary. Thus, regulators avoided closing institutions or arranging supervisory mergers. Losses were not recognized and the FSLIC remained financially solvent, at least until 1987 when the magnitude of the losses finally forced the recognition of the FSLIC's insolvency.

By the mid-1980s, however, many thrifts were still experiencing problems, and thrift regulators offered a new argument to avoid closing troubled institutions—that troubled thrifts could "grow out of their problems." Unfortunately, allowing them to does so did not anticipate either the subsequent decline in energy prices and its effect on the collapse of the credit quality of thrifts in the Southwest or the Tax Reform Act of 1986, which affected real estate values. By 1986, many thrifts that had previously been restored to financial health now suffered from a reduction in their asset values. In 1986, thrifts lost more than $1 billion in net nonoperating income, the accounting measure that best reflects asset losses. In 1987 and 1988 combined, thrifts lost $19 billion in net nonoperating income.

Thus, regulatory forbearance permitted the thrift industry to deteriorate. By not closing insolvent thrifts or requiring them to recapitalize, the regulators exacerbated the problem—inherent in insurance relationships—of moral hazard. Moral hazard is the term economists use to describe the reduced incentive of insured parties to protect themselves against risk if the potential losses associated with that risk are guaranteed (or insured) by another party. The U.S. system of deposit insurance addresses the risk of moral hazard through regulation and prudential supervision. When those safeguards failed, the adverse incentives of moral hazard were given free play.

Forbearance, therefore, set the stage for rampant investment speculation and fraudulent practices, all of which added to the ultimate cost of resolving the thrift crisis.

ESTIMATING THE COST OF FORBEARANCE

Recent studies of government accounting for deposit insurance suggest a method of estimating the cost to the government of the regulatory forbearance policies of the 1980s.[5] This method would recognize losses on a more timely basis by requiring the deposit insurer to record losses on the government's books once a depository was insolvent on a book-value basis.[6] Thus, a depository would be recognized as having failed when it became insolvent on a book-value basis, rather than when it was closed, as is current practice. In the unlikely event that an institution that was insolvent on a book-value basis recovered, the avoided resolution costs would be recorded as a receipt.

Retiming resolutions based on a tangible solvency rule

Financial statements (call reports) from all thrifts regulated by the Federal Home Loan Bank Board or insured by the FSLIC contain information that can be used to estimate the cost of resolving failed thrifts, if they had been closed when they were reported to be insolvent. The best available measure of solvency, which is contained in call reports, is tangible capital—the value of tangible assets minus liabilities. When tangible capital equals zero, an institution is effectively insolvent.

The effects of this insolvency criterion can be analyzed by applying it to the 1,130 thrifts that already have been or are expected to be resolved. This set of institutions includes 842 thrifts that were resolved by the FSLIC or its successor, the Resolution Trust Corporation (RTC), during the period 1980 through 1990. It also includes 288 unresolved thrifts that are projected to be resolved sometime in calendar year 1991–179 thrifts that were in RTC-conservatorships at year-end 1990, and 109 thrifts that were tangibly insolvent but not in government hands at the end of 1990.[7]

Most failed thrifts were not resolved until long after they became tangibly insolvent. Figures 1 and 2 compare the timing of when these 1,130 thrifts first became insolvent on a tangible basis with when they were resolved; Figure 3 shows the average length of time institutions were insolvent. About 57 percent of these thrifts were insolvent before 1985, yet the FSLIC had resolved only 15 percent. By year-end 1987, 80 percent were insolvent, but only 26 percent had been resolved. The average duration of insolvency before closure and resolution for the entire 1,130 thrifts was 38 months. Thrifts resolved in 1990 were, on average, insolvent for 49 months. Thus, by 1990, thrift owners, managers, and directors had had more than four years of forbearance to try to salvage their institutions and for moral hazard incentives to operate.

[Figures 1, 2, and 3 not reproducible in the Record.]

At the time an institution is closed, the RTC estimates—as did the FSLIC before it—the present-value cost of resolving the institution's assets and liabilities. This is the agency's best estimate of the cost of resolution. Thus, FSLIC and RTC estimates of resolution costs can be used to determine the final cost of resolving failed thrifts. Table 1 shows aggregate information on the 1,130 thrifts closed and projected to be resolved during the period 1980 through 1991. The estimated present-value costs of resolution are shown in nominal terms and recalculated in 1990 dollars. The estimated constant dollar cost of resolution totaled more than $125 billion over the 1980–1991 period.

[2] Additional thrifts were merged with regulatory supervision at no insurance cost to the government.

[3] Tangible capital excludes the value of goodwill created through merger transactions.

[4] CBO currently projects that an additional 887 thrifts that are now solvent when measured on a book-value basis will need to be resolved by year-end 1995, because of their financial problems. If closed today, these thrifts would cost, on a present-value basis, an additional $33 billion to resolve.

[5] The Omnibus Budget Reconciliation Act of 1990 mandated the study of government accounting for deposit insurance by CBO and the Office of Management and Budget (OMB). Both agencies presented their mandated studies to the Congress at the end of May 1991. The studies included numerous options for reforming the accounting treatment of government deposit insurance.

[6] See Congressional Budget Office, "Budgetary Treatment of Deposit Insurance: A Framework for Reform" (May 1991).

[7] CBO currently projects that an additional 887 thrifts will require resolution by either the RTC or the Savings Associations Insurance Fund by 1996. These 887 thrifts are currently operating in a tangibly solvent condition, but based on the poor quality of their asset portfolio these thrifts will most likely fail and require government resolution in the near future.

TABLE 1.—CHARACTERISTICS OF INSTITUTIONS RESOLVED, 1980–1991

[In millions of dollars]

Year	Number of resolutions	Total assets	Average number of months of tangible insolvency	Resolution cost per dollar of assets [Percent]	Estimated present-value cost of resolution	
					Current dollars	1990 dollars
1980	11	1,458	5.4	11.5	167	262
1981	28	13,908	5.2	5.5	759	1,091
1982	63	17,662	12.9	4.6	803	1,087
1983	36	4,631	16.4	5.9	275	357
1984	22	5,080	23.4	14.6	743	928
1985	31	5,601	25.9	17.5	979	1,238
1986	46	12,455	30.6	24.6	3,065	3,609
1987	47	10,660	35.7	34.8	3,704	4,208
1988	205	100,660	42.0	31.0	31,180	33,994
1989	37	11,019	42.4	58.0	5,399	5,641
1990	316	117,191	49.0	28.4	33,031	33,031
1991 [1]	288	167,542	55.0	26.1	43,782	41,687
Total	1,130	467,867	42.1	26.5	123,887	127,133

(1) Projected.

Source—Congressional Budget Office using data from the Federal Home Loan Bank Board and the Office of Thrift Supervision.

Estimating the cost of delay in closing and resolving failed thrifts

A simple method to determine the cost of forbearance (or the cost of delaying the closure of insolvent thrifts) would appear to be to subtract the originally reported negative amount of insolvency from the estimated cost of resolution, which occurred some time later. This calculation, however, would misstate the losses incurred after an institution became insolvent on a book-value basis because of the inclusion of administrative costs in the resolution cost estimates and the exclusion of embedded market-value losses that are unrecognized in the book-value measure of tangible capital.

To account for both the administrative costs and the embedded losses, CBO calculated what the cost of resolution would have been had insolvent institutions been resolved when they reported negative tangible capital.[8] This calculated resolution cost was then compared with the actual estimated resolution cost made by the resolving agency (either FSLIC or RTC) when the institution was resolved. The difference between these two amounts represents the estimated cost of delay resulting from forbearance (see Figures 4 and 5). After adjusting for inflation, this calculation produces an aggregate estimated cost of delay, in 1990 dollars, of approximately $66 billion for the 1,130 thrifts.

[Figures 4 and 5 not reproducible in RECORD.]

The $66 billion cost of forbearance can be used to calculate the annual real rate of deterioration of the troubled thrifts that were allowed to remain open. The cost of resolving failed thrifts increased, in real terms, an average of 37 percent in each year that they were left open to operate. The median annual increase in costs for the 1,130 thrifts was 51 percent. The estimated resolution costs increased for 513 thrifts. The remaining thrifts either were resolved at no additional costs or were resolved in the year they became insolvent.

Calculating the cost of delay requires a number of simplifying assumptions. One assumption is implicit—that certain costs incurred in the process of resolving a failed thrift are the same whether it would have been resolved when it first became insolvent, or later, when it actually was resolved. These costs come from the government's administration of resolutions and the possible loss of franchise value that may take place if regulators act precipitously.[9]

The most important assumption is that the costs remaining after the calculated resolution costs are subtracted from the reported resolution costs represent the deterioration in net worth that could have been avoided if the institution had been shut down at the time of insolvency. Although the estimated cost of delay attempts to incorporate a write-down of the embedded losses, some of these losses may still be represented in the estimate. There is, however, sufficient reason to believe that a substantial portion of those losses represent additional costs that could have been avoided if institutions had been closed earlier. Many troubled thrifts attempted to increase their assets and funded that growth by borrowing at high rates. Undercapitalized thrifts paid costly premiums for their deposits and other borrowings. Financing growth is this way only reduced or made negative their net operating profits. Fraud and negligence, fueled by the incentive of moral hazard, have been well documented. On balance, the weight of available evidence indicates that much of the estimated $66 billion in added costs that occurred between the time of insolvency and the time of closure was the result of actions and investments made by thrift officials during the intervening period.

Two factors associated with calculating the cost of forbearance based on tangible solvency could change the estimated cost. First, some tangibly insolvent thrifts did recover. About 345 thrifts currently operating and tangibly solvent on a book-value basis were technically insolvent at some time during the 1980s. CBO projects that 70 percent of the 345 thrifts will ultimately fail and require resolution. Adjusting the earlier calculations of the cost of forbearance to account for the possible continued recovery of the surviving institutions would lower the estimate by only $1.5 billion.

A second factor, however, could raise the estimate of forbearance costs. Many analysts have suggested that earlier closure of failed thrifts might have benefited other, healthy, thrifts that subsequently also failed. Because undercapitalized or insolvent thrifts were permitted to compete with healthy thrifts (and banks), they bid up interest rates offered to depositors and bid down rates required of borrowers. The resulting squeeze on the profits of all financial competitors ran up the cost of the thrift debacle.

Thus, on balance, the forbearance policy practiced by thrift regulators during the 1980s must carry a large portion of the burden for escalating the cost of the thrift bailout. Had regulators acted more promptly, as much as $66 billion might have been saved.

TABLE A–1.—YEAR-END THRIFT INFORMATION, 1980–90

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Assets and Net Worth (billions of dollars):											
Number of institutions	3,993	3,751	3,287	3,146	3,136	3,246	3,220	3,147	2,949	2,597	2,342
Total assets (RAP basis)	604	640	686	814	978	1,070	1,164	1,251	1,352	1,157	1,005
Net worth (GAAP basis)	32	27	20	25	27	34	39	34	46	51	NA
Tangible net worth	32	25	4	4	3	9	15	9	23	36	38
Income (millions of dollars):											
Net after-tax income	781	−4,631	−4,142	1,945	1,022	3,728	131	−7,779	−12,057	−3,124	−964
Net operating income	790	−7,114	−8,761	−46	990	3,601	4,562	2,850	907	−3,549	−1,099
Net nonoperating income	398	964	3,041	2,567	796	2,215	−1,290	−7,930	−11,012	316	428
Taxes	407	−1,519	−1,578	576	764	2,087	3,141	2,699	1,952	−109	331
Asset Portfolio (percentage of total):											
Home mortgages	66.5	65.0	56.3	49.8	44.9	42.4	38.9	37.8	38.6	42.9	44.5
Mortgage-backed securities	4.4	5.0	8.6	10.9	11.1	10.4	13.1	15.6	15.4	14.0	14.5
Mortgage assets	70.9	70.0	64.9	60.7	56.0	52.8	52.0	53.4	54.0	56.9	59.0
Institution Type:											
Stock institutions:											
As a percentage of all institutions	20.0	21.0	23.0	24.0	30.0	33.0	37.0	40.0	44.0	44.0	44.0
As a percentage of total assets	27.0	29.0	30.0	40.0	52.0	56.0	62.0	70.0	74.0	75.0	75.0
Federally-chartered:											
As a percentage of all institutions	50.0	51.0	51.0	51.0	54.0	53.0	54.0	56.0	58.0	60.0	64.0
As a percentage of total assets	56.0	63.0	70.0	66.0	64.0	64.0	64.0	65.0	71.0	75.0	83.0
Tangible Capital-to-Asset Ratio (assets in billions of dollars):											
Greater than 6 percent:											
Number of thrifts	1,701	1,171	787	661	643	806	972	1,113	1,136	1,180	1,132
Total tangible assets	181	101	59	84	62	95	156	188	196	206	195
Between 3 percent and 6 percent:											
Number of thrifts	1,956	1,766	1,202	1,091	945	1,009	995	891	864	813	837
Total tangible assets	379	348	190	222	227	259	316	356	418	480	484
Between 1.5 percent and 3 percent:											
Number of thrifts	230	524	592	569	526	460	354	277	281	245	163
Total tangible assets	39	113	136	185	168	212	191	196	244	206	154
Between 0 percent and 1.5 percent:											
Number of thrifts	63	178	291	310	327	266	227	194	160	120	101
Total tangible assets	4	50	81	88	153	135	144	143	182	59	83

[8] The calculation of what resolution costs would have been relies on data for reported levels of tangible net worth, both at the time of insolvency and at the time of resolution.

[9] The calculation also assumes that the time value of money and the resolution's cash flow were unchanged over time.

TABLE A–1.—YEAR-END THRIFT INFORMATION, 1980–90—Continued

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Less than 0 percent:											
Number of thrifts	43	112	415	515	695	705	672	672	508	239	109
Total tangible assets	0.4	29	220	234	336	335	324	336	283	192	89
Conservatorships (assets in billions of dollars):											
Number of thrifts	NA	NA	NA	NA	NA	NA	NA	NA	NA	281	179
Total tangible assets	NA	NA	NA	NA	NA	NA	NA	NA	NA	93	79
Resolutions (millions of dollars):											
Number of thrifts	11	28	63	36	22	31	46	47	205	37	316
Total assets	1,458	13,908	17,662	4,631	5,080	5,601	12,455	10,660	100,660	11,019	117,191
Estimated present-value cost	167	759	803	275	743	1,022	3,065	3,704	31,180	5,399	33,031
Estimated present-value cost, in 1990 dollars	262	1,091	1,087	357	928	1,238	3,609	4,208	33,994	5,641	33,031

Source: Congressional Budget Office using data from Federal Home Loan Bank Board, Office of Thrift Supervision, Resolution Trust Corporation, and Ferguson and Company. The format of this table is adapted from James R. Barth, Philip F. Bartholomew, and Carol J. Labich, "Moral Hazard and the Thrift Crisis: An Empirical Analysis," Consumer Finance Law Quarterly Report, vol. 44, no. 1 (Winter 1990), p. 23.

Notes: Data for 1990 are preliminary. For 1989 and 1990, industry data do not include those thrifts in conservatorships at year-end (the thrifts included are referred to as private-sector thrifts by the Office of Thrift Supervisions). Resolutions in 1988 do not include 18 "stabilizations" that had assets of $7,463 million and tangible net worth of negative $3,348 million, and an estimated present-value resolution cost of $6,838 million. Resolutions in 1989 do not include seven resolutions by the Federal Savings and Loan Insurance Corporation (reportedly at no cost to FSLIC) and two by the Resolution Trust Corporation (reportedly at no cost to the RTC). Home mortgages exclude multifamily and nonresidential mortgages. RAP—Regulatory Accounting Practice; GAAP—Generally Accepted Accounting Principles; NA—not applicable.

TABLE A–2.—ATTRITION AMONG INSTITUTIONS INSURED BY THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION, 1980–90

[Assets and costs in millions of dollars]

Year	Resolutions requiring FSLIC or RTC assistance									Resolutions requiring no assistance	
	Liquidations			Mergers and other types of assisted resolutions			All assisted resolutions				
	Number	Total assets	Total cost	Number	Total assets	Total cost	Number	Total assets	Total cost	Management consignment cases and RTC conservatorships [1]	Supervisory assisted mergers
1980	0	0	0	11	1,457.6	166.6	11	1,457.6	166.6	0	21
1981	1	88.5	30.4	27	13,819.7	728.3	28	13,908.2	758.7	0	54
1982	1	36.1	2.9	62	17,626.0	800.4	63	17,662.1	803.3	0	184
1983	5	262.6	60.6	31	4,368.5	214.1	36	4,631.1	274.7	0	34
1984	9	1,497.7	583.3	13	3,582.5	159.3	22	5,080.2	742.6	0	14
1985	9	2,141.3	630.1	22	4,227.0	391.5	31	6,368.3	1,021.6	23	10
1986	10	583.8	253.7	36	11,871.3	2,811.3	46	12,455.1	3,065.0	29	5
1987	17	3,043.8	2,277.5	30	7,616.6	1,426.1	47	10,660.4	3,703.6	25	5
1988	26	2,965.2	2,831.7	179	97,694.7	28,347.8	205	100,659.9	31,179.5	[2] 18	6
1989	30	2,294.7	1,406.7	7	8,724.5	3,992.5	37	9,662.0	5,608.0	281	0
1990	144	22,544.6	10,685.5	172	94,646.2	22,345.9	316	110,253.0	31,305.0	179	0
Total	252	35,458.3	18,762.4	590	265,634.6	61,383.8	842	292,797.9	78,628.6	555	333

[1] After 1988, thrifts were placed into Resolution Trust Corporation (RTC) conservatorship before resolution; before 1989, many thrifts were placed into a management consignment program.
[2] Resolution of these institutions—called stabilizations by the Federal Home Loan Bank Board—was incomplete.

Source: Congressional Budget Office using data from the Federal Home Loan Bank Board and the Office of Thrift Supervision.

Note: Costs are estimated present-value costs of resolution.

[From the Washington Post, May 13, 1991]

A BANK BUILT BY DEVELOPERS CRUMBLES—MADISON NATIONAL'S INSIDER LOANS STUDIED

(By Joël Glenn Brenner)

The neon sign that reaches to the top of Madison National Bank's downtown headquarters had long since short-circuited so that the letters B-A-N-K faded and flickered, leaving the five employees gathered below Friday night to talk in darkness.

More than seven hours earlier, the federal government had seized the bank, and the Madison employees were sharing gossip about the bank's demise—the second bank failure here in less than a year—and its sale to Signet Banking Corp. for $18 million.

"It's sad to see this happen, but it wasn't like we weren't expecting it," said Marjorie Gleason, who worked at the bank's main office. "This bank has been on the edge for years. If just came down to what would finally push it over."

Gleason's matter-of-fact explanation was borne out by recently released financial documents and interviews with federal banking regulators that showed Madision has been on the verge of collapse since the late 1980s.

The bank, which for years had thrived on real estate lending, particularly loans to the developers who sat on its board, was squeezed in the area's real estate bust. Madison records show that two-thirds of the bank's troubled loans went to officers, directors and their relatives.

That regulators had long been aware of Madison's troubles, and even helped prop it up in its last months, is likely to spark further debate in Congress over how regulators handle bank failures. [See story on Page 14.]

In Madison's case, many of the problems that contributed to its collapse date back to 1963 and the bank's original mission: to serve the region's real estate developers, many of whom sat on its board.

In 1963, the mission made perfect sense.

The Washington skyline then consisted largely of the Capitol, the Washington Monument and sprawling federal offices. The real estate boom sparked by the emerging Washington business community was just moving into full swing.

Some of Madison's founders already had made their fortunes building the apartments, offices and shopping centers that would soon overshadow the federal enclave.

Despite their stature and wealth, a few of these developers—Charles E. Smith, Jack Bender and Samuel Cohen—had never served on the boards of Washington's venerable old-line banks because of discrimination against Jews, according to longtime local businessmen.

According the those who remember that era, these developers set out to form a bank where they could have easier access to credit and could direct things to their liking. They were joined by several other prominent Washington players—developer Dominic F. Antonelli Jr., attorney Leonard L. Silverstein, accountant Morris B. Hariton and U.S. ambassador Kingdon Gould Jr.

In its first year of operation, Madison made a profit of $348,000. Its growth record was the best of any of the four new banks chartered at the time. Its success, Madison said then, was linked directly to the area's construction boom.

In just the first six months, the bank originated and serviced about $24 million in construction loans. By Madison's second year, that number had jumped to more than $100 million.

Although some of the original founders such as Smith bowed out early on, Madison maintained its strong ties to the area's commercial real estate community, inviting developers and other real estate professionals to serve on the board.

Ulysses "Blackie" G. Auger, real estate investor and owner of Blackie's House of Beef, joined Madison and became one of its largest shareholders. Antonelli, Bender and other directors, such as wholesale fish distributor and real estate investor William C. Eacho Jr., also began buying large blocks of stock. At one point, nearly 58 percent of Madison's ownership was concentrated in the bank's boardroom, which was one of the most close-knit in town.

Madison directors who resigned often were replaced by their relatives or friends. Jack Bender's sons, Howard and Stanley, for example, have continued in their father's place. Samuel Cohen's son-in-law, Morton Funger, became a Madison director as well. Even Smith, who has tried over the years to separate himself from the bank, remained tied to it through his son-in-law, bank director Robert P. Kogod.

In the early 1970s, rumors abounded among local businessmen that Madison was a "candy story" for its directors and their friends, who reportedly could get loans simply by asking.

In 1976, an investigation into Madison's lending practices by The Washington Post revealed that all but one of the real estate loans of $100,000 or more made by the bank over a three-year period went to directors, stockholders and former Madison employees. Among those who received loans for themselves or their business interests were Auger, Antonelli and Gould.

Although none of these insider loans caused losses, The Post investigation found that while Madison was busy funding its directors' projects, it was paying much less attention to the credit needs of the broader community. Several businessmen charged that they had been denied real estate loans and that "connections" were the only way to get Madison financing.

Then-chairman Louis C. Paladini defended Madsion against charges that its directors and stockholders had benefited unduly from self-dealing in loans and fees made on those loans. Federal regulators, saying that loans to directors and officers are legal as long as they are made at arm's length and at prevailing terms, also defended the institution.

But Madison's emphasis on lending to its board members caught the attention of Congress, which held a series of hearings to discuss the bank's operations.

Although the charges of insider dealing soon faded, Madison's reputation for lending to its board did not. The bank continued to market itself as a commercial real estate lender. As real estate boomed again in the 1980s, Madison found itself with the area's highest concentration of construction loans.

From 1985 through the third quarter of 1990, commercial real estate and construction loans grew from 24 percent to almost 44 percent of Madison's loan portfolio. Even Baltimore-based MNC Financial Inc., the biggest financier of local real estate development, has only 27 percent of its protfolio concentrated in office buildings and raw land.

Federal banking regulators said last week that they had been warning Madison for years about this lack of diversity. They also had warned bank officials to tighten their lending practices, which the regulators said included making high-risk real estate loans without collateral, providing full financing for real estate projects and lending "based on charter rather than cash flow."

In April 1989, the board promised it would address these concerns. But the bank's condition continued to deteriorate and real estate lending continued at the same rate, despite what had become a sharp downturn in the local real estate market, according to bank examiners. In late 1990, regulators forced the bank to sign a formal agreement to improve operations and the Federal Reserve began pumping cash into Madison to keep it alive.

To determine the depth of Madison's problems, federal bank examiners swarmed the bank's M Street NW headquarters in January of this year and began a loan-by-loan review of Madison's books.

Even before the exam began, Antonelli resigned from the board. The rampant overbuilding in the commercial real estate sector had battered Antonelli's real estate empire and forced him into bankruptcy reorganization he now owes Madison more than $7 million.

Another six board members resigned just before the examiners began their loan review. Most of them also were heavily involved in the real estate industry; the bank said they left to "concentrate on personal matters."

In the middle of the regulatory scrutiny, Madison's two top executives also resigned. Chairman K. Donald Menefee and President Norman Hecht reportedly left the bank at the request of the Office of the Comptroller of the Currency, which oversees the nation's banks. The two were replaced in late February by Michael F. Ryan, who also oversaw the National Bank of Washington in the final months before its collapse last year. Menefee and Hecht have declined to discuss why they left the bank.

But one Madison official, who requested anonymity, said last week that Hecht and Menefee were never the ultimate decision makers.

"The decisions that were made at the bank were made by the board," the official said. "They ran the place. They called the shots."

Sources say Madison board members always exercised direct control of the bank's lending. Recently released documents show they gave themselves, their relatives and Madison officers 20 percent of all the loans made by the bank company.

Many of those loans have since gone sour. According to a filing last week with the Securities and Exchange Commission, two-thirds of Madison's troubled loans are loans that were made to insiders to fund their real estate projects.

Madison said loans to its officers, directors and their relatives were made on the same terms as loans given to unrelated borrowers. However, bank regulators, who asked not to be identified, said last week that the relationships between the board and the bank are under formal investigation by the Federal Deposit Insurance Corp. Such a probe is common practice when a bank fails.

Said one regulator: "It's clear that these loans contributed significantly to the demise of the bank."

Ryan said lending to bank directors was simply "part of the corporate culture." He said Madison never directly funneled loans to the board, but because board members were developers it made sense to lend to them.

Madison employee Gleason, as she turned to look at Madison National one last time before heading home late Friday, took a different view.

"It's sad. We'd all heard what a mess the place was, with inside deals and stuff. And I think we all knew in our hearts that Madison wouldn't make it. But what's really a shame is that we all knew—and there was nothing we could do about it."

[From the Washington Post, May 10, 1991]

MADISON'S OFFICIALS HOLD BULK OF ITS SOURED LOANS

(By Joël Glenn Brenner)

Two-thirds of the troubled loans that have brought Madison National Bank to the brink of collapse were made to its own directors and officers to fund their real estate ventures, according to financial reports filed yesterday with the Securities and Exchange Commission.

Madison's parent, District-based James Madison Ltd., announced last week that Madison is insolvent, with liabilities exceeding assets. Losses at the Madison banking subsidiaries have been so large that a federal takeover could occur, it added. Sources said the Federal Deposit Insurance Corp. is trying to sell Madison and that a deal, with government assistance, could be completed shortly.

Madison made loans to insiders at a level that, while legal, is practically unheard of in the banking industry, analysts said. According to the SEC filing, $1 out of every $5 in Madison loans outstanding in 1990 went to bank directors, executive officers or their relatives for building commercial offices, buying land and constructing homes.

Among the bank company's directors and their relatives who have outstanding loans for real estate projects are developer Dominic F. Antonelli Jr., a Madison founder who resigned from the board last August and is now in bankruptcy; Antonelli's son John and his daughter Lee; Ulysses "Blackie" G. Auger, a Madison founder and owner of Blackie's House of Beef; Richard S. Cohen, president of Willco Construction Co., who resigned from the board in the fourth quarter; Cohen's brother, Ronald Cohen; Howard and Stanley Bender, both Madison directors and owners of Blake Construction Co.; and Richard A. Kirstein, a Madison director and president of Richmarr Construction Corp.

District land records show that even as recently as January, when real estate values were plummeting and the bank's fortunes were in question, Madison continued to make loans to its directors.

On Jan. 24, Angelo Puglisi, former head of Madison Bank of Maryland, and his partners received a $20,000 loan on vacant land at 21st and P streets NW. That was Madison's second loan on the property, according to a review of the land records by the Service Employees International Union.

None of these directors returned phone calls for comment yesterday.

Madison Chairman Michael F. Ryan, who recently took control of the institution, said the bank did not deliberately funnel loans to its board members.

"This bank was created by real estate developers and these were real estate-related loans," Ryan said. "The fact that [the loans] happened to be to directors is an issue of the employment of the directors. . . . It was a corporate culture."

Yesterday's disclosure included $43.9 million in loans to directors and officers that had not been reported to shareholders or regulators. Madison attributed the addition to "refinements to the company's loan classification system." Ryan declined to comment on why these loans had not been classified before as insider deals.

Problems with insider loans are nothing new at Madison, which became the subject of a congressional investigation in the late 1970s because of its heavy emphasis on lending to its board of directors. Antonelli and Auger were criticized then for loans they had received.

Unlike in the 1970's, however, insider loans made recently have contributed significantly to the financial problems of the bank company, which operates of the bank company, which operates the sixth-largest bank in the District and smaller banks in Maryland and Virginia.

Madison was founded in 1963 by a group of mostly Jewish real estate developers—headed by builder Charles E. Smith—who had found it difficult to get financing for their projects from other banks in the District. Madison has continued to focus on real estate lending, and its board of directors is still made up largely of those in the real estate industry.

Although lending to directors and officers is an accepted banking practice, it has been cited by industry experts as a key factor contributing to the failure of hundreds of the nation's savings and loans.

Federal regulators have said the problem of excessive insider dealings in the nation's commercial banks is not a significant problem. They say careful supervision by the Office of the Comptroller of the Currency (OCC) has kept banks from abusing the insider loan privilege.

Although banks report to federal regulators which loans they make to directors and officers, they are not required to disclose that information to shareholders unless the loans become troubled.

Madison said in the SEC filing that all of its insider loans "were made in the ordinary

course of business and on substantially the same terms, including interest rates and collateral, as those prevailing at the time . . . and did not involve more than the normal risk of collectibility with respect to other loans in the company's portfolios."

However, according to the filing, federal regulators have criticized nearly half of the $132.2 million of loans that Madison has outstanding to its directors, officers and their relatives. Of those, $24 million in loans are no longer paying interest. Another $27 million are classified as troubled because they are collateralized by property that has lost substantial value or are otherwise "substandard."

In addition, Madison has written off $11.5 million of insider loans as uncollectible. That accounts for one-third of all the bank company's loan write-offs in 1990.

For the past several months, Madison has been the subject of intensive examinations by all three federal banking regulators, the OCC, the FDIC and the Federal Reserve Board. It has signed special supervisory agreements with all three that prohibit it, among other things, from making more loans to directors.

Madison said in its filing that any future action by the regulators could result in "substantial civil money penalties against" its directors and other affiliated parties.

Madison's deposits continue to be insured up to $100,000 per customer account.

EX-OFFICIALS AT MADISON INVESTIGATED

(By Joël Glenn Brenner and Kirstin Downey)

Former top officials of Madison National Banks of the District and Virginia are being investigated by seven federal agencies for possible illegal activity prior to the failure of the banks last month, according to regulatory documents and sources close to Madison.

According to these sources, investigations by the FBI, the U.S. Attorney's Office, the Internal Revenue Service, the Securities and Exchange Commission, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corp. and the Department of Housing and Urban Development are underway into a wide range of possible illegal activities, including making fraudulent housings loans, insider stock trading, check-kiting and falsifying bank documents.

Regulatory documents show that as of last summer, the FBI was investigating K. Donald Menefee, former chairman and chief executive of James Madison Ltd. in the District, in connection with possible money-laundering violations. Sources said that investigation was still underway at the time of the bank's collapse May 10.

Menefee could not be reached for comment.

Madison was formed in 1964 by a group of prominent local developers including Dominic F. Antonelli Jr. He and other directors have borrowed heavily from the bank over the years. The bank failures, which came after massive losses on real estate loans, are expected to cost the FDIC about $160 million.

The Office of the Comptroller of the Currency (OCC) said yesterday that it has decided to fine former Madison directors and officers, whom it did not identify, for "unsafe and unsound banking practices" and other violations of banking law, including violations of rules governing bank loans to their own officials.

In the five years before regulators shut down the banks, directors and officers were cited by the OCC more than 80 times for violating bank laws, including exceeding limits on loans to directors and falsifying financial documents, according to documents disclosed during a congressional hearing this month. However, monetary penalties were not assessed against the banks' leadership for these violations.

FDIC spokesman David Barr said his agency is investigating officers and directors for their role in the banks' collapse and could bar them for life from working in another bank or savings and loan, seek restitution from them, or both. He said it is too early in the investigation to tell what action, if any, the agency would take.

Officials from the SEC and the FBI refused to comment.

Internal regulatory memos dated Aug. 22, 1990, indicate that the FBI was investigating James Madison's then-chairman Menefee for his involvement with two unnamed bank customers under investigation by the bureau for possible money-laundering. Sources said the FBI's investigation into Menefee was continuing at the time of Madison's failure.

"It appears that while Mr. Menefee was a loan officer, he lent [these] two customers money personally," the memo said. The FBI, according to the memo, was trying to "determine what knowledge, if any Meneff has of these men's other business dealings." Madison, the memo said, was paying for Menefee's legal fees in connection with the investigation.

Menefee was forced to resign his position in the months before the bank collapsed in May. It could not be learned whether his resignation was related to the FBI inquiry.

Internal regulatory documents also state that John Broumas, former chairman of the Madison National Bank of Virginia, was forced to resign by the bank's directors last July after the board was informed that he was involved with a check-kiting scheme that defrauded the bank of $71,000 and with an insider stock-trading scheme that netted him $350,000. Check kiting involves drawing money illegally from several accounts through fraudulent transactions.

Broumas declined to return phone calls for comments.

Sources said the SEC is probing Broumas's stock transactions, which involved three other bank employees, two of whom resigned or were dismissed. According to the documents, Broumas asked the three employees to set up brokerage accounts in their names, with their Social Security numbers, using Broumas's money. Broumas executed more than 400 transactions in bank stock through the accounts between January and May 1990, making about $350,000 in profits, the documents report.

The stock trades violate SEC rules that require insiders to return any profit that was gained on stock held for less than six months to the company, the documents said. In addition, insiders are not allowed to trade stock in other people's names and must file forms with the SEC every time they buy or sell stock in their firm. Broumas never filed the required reports, the documents said, and he has never returned his profit to Madison, according to sources.

In addition to the trading violations, documents said Broumas and two friends were involved in a check-kiting scheme through the bank. The fraud was discovered by the bank's internal auditors, the documents said. Broumas repaid the $71,000 after he was forced to resign July 11, 1990.

Frank Cerutti, former president of Madison National Bank of Virginia, also is being investigated by the FDIC and the OCC, sources said, for allegedly falsifying minutes of a board meeting. Cerutti was forced to resign after the board discovered the changes in the minutes, sources said.

Cerutti could not be reached for comment.

According to documents, Cerutti altered the minutes to reflect approval of a loan for the benefit of his church. "His church had applied for a loan at the [Virginia] bank and apparently was pressuring him for an answer to the request," one document said. However, the loan officer was not prepared to present the loan to the bank's board for approval.

"After pressure from Cerutti," the document said, the board did approve its "intent to lend." However, a review of meeting minutes reflected the board's approval for the loan, the document said: "All roads led back to Cerutti, who apparently falsified the minutes to reflect approval. The [Virginia] board subsequently asked for his resignation."

Madison National Bank first came to the attention of the U.S. Attorney's Office in 1985 in connection with an investigation into fraudulently obtained loans insured by HUD's Federal Housing Administration, said Steven Tabackman, a former assistant U.S. attorney who headed the investigation between 1985 and 1988.

The probe, jointly conducted by HUD, the FBI and the IRS, has resulted in more than 60 criminal convictions. No Madison officials have been charged.

District land records show that Madison provided the money that allowed real estate investors to buy numerous small apartment buildings in Northeast Washington in 1982 and 1983. These properties were resold to investors with the use of fraudulently obtained FHA-insured loans, and the real estate brokers and investors split the proceeds from the sales, according to guilty pleas by participants in the transactions.

Madison would have received part of the proceeds from each transaction in exchange for financing the deals, Tabackman said.

Many of these transactions involved real estate investor Marvin Gitelson through two firms he owned, Sundust Investment Corp. and Bancies Inc.

In November 1989, Gitelson was charged with narcotics trafficking and HUD fraud, and later pleaded guilty to two counts of interstate transportation of property taken by fraud and making false statements to HUD.

Gitelson had 13 separate accounts at Madison, according to court documents, where he deposited the proceeds of his various business enterprises. Those enterprises included real estate investments and check-cashing services, Tabackman said.

HUD also is investigating whether Madison was involved in schemes to defraud the agency. "It's a hot matter right now," said Hilton Green of the HUD Inspector General's Office, who declined further comment. "We're looking into a lot of folks."

Former officials contacted about the probes said they were unaware of any inquiries into the banks' activity.

"I have no idea of any criminal investigation," said Norman F. Hecht Sr., former president of Madison National Bank in the District.

[From the Washington Post, Apr. 27, 1992]

KEEPING INSIDERS WITHIN LIMITS

When the curtain fell on the now-defunct Madison National Bank last year, the spotlight shifted belatedly to the huge number of shaky insider loans held by its directors, top executives and key shareholders. That costly discovery, along with similar findings at

other failed institutions, prompted Congress to tighten restrictions on bank lending to insiders. Now some bankers are complaining that new Federal Reserve Board implementing regulations will cause banks to lose some of the best business they ever had. But weighed against the loss in public trust that imprudent insider deals can cost, the new bank boundaries make sense.

Before the clampdown, bank directors and other insiders could individually or collectively borrow more than 100 percent of the bank's equity capital, provided the loans weren't made on preferential terms. The new regulations will limit individual insider loans to 25 percent of equity capital, and the total of loans to all insiders could not exceed 100 percent in the case of large banks and 200 percent for small institutions. Even with these generous aggregate insider lender limits, bankers fear that the guidelines will force some of their most favored directors to choose between directorships and the continuation of their comfortable borrowing relationships. But if that is one of the eventual results, the guidelines will indeed be serving the public interest.

Opponents of the new banking discipline seem to have lost sight of a director's basic role. Bringing in business or adding prestige to a bank board, is (or should be) secondary to a director's principal duty, which is to protect the interests of the owners—shareholders—and depositors. That is the reason bank directors, unlike those in other businesses, take oaths of office. Their loyalty is owed to the institution they represent, not just to the chief executive who selected them or to the account officer who generously services their loans. Unfortunately, as illustrated by the long list of failed institutions, too many overborrowed directors and other insiders became too compromised by their own personal banking needs and relationships to give sufficient care and diligence to the safety and soundness of the banks they were sworn to protect. That alone is reason for Congress and the federal regulators to have acted as they did.•

OUTSTANDING ENGINEERING

• Mr. GORTON. Mr. President, the State of Washington is home to many of the most beautiful natural resources in the world. Mount Rainier, the Columbia River, and the amber waves of wheat in the Palouse are just a few of our natural wonders. These resources have great esthetic and economic value for the State of Washington.

But the list of notable landmarks in Washington State does not end with our natural resources. For the third year in a row, District 12 is the home of Civil Engineering magazine's "Outstanding Civil Engineering Achievement" prize. This year's recipient is the West Seattle low-level swing bridge.

This bridge is one experts said could not be built. It is a concrete segmental box-girder swing bridge with twin leaves weighing 7,500 tons each. It is the only hydraulically operated double-leaf concrete swing bridge in the world.

This unique bridge is the engineering solution to the challenge posed in the Duwamish Waterway improvement plan. The bridge enables large ocean freighters to better navigate the water to upriver marine terminals and industries. It will give industrial transportation a more direct access into the industrial areas that line the Duwamish River. And finally, it provides access to West Seattle, where about a quarter of the city's population lives. The bridge carries more than 70,000 vehicles per day, 12,000 of which are heavy trucks, with links to two interstate highways, a major State highway, and downtown Seattle.

Mr. President, I would like to congratulate the Seattle Engineering Department, which sponsored the project, and commend the Port of Seattle, King County, Washington State Department of Transportation, and the Federal Highway Administration for their involvement. I also ask that an article from the July 1992 issue of Civil Engineering entitled "Seattle Swings Again" be inserted in the RECORD.

The article follows:

SEATTLE SWINGS AGAIN

(By Rita Robinson)

Constructed as an industrial workhorse to divert truck traffic from an adjacent graceful high-level span, the $33.5 million West Seattle Low-Level Swing Bridge is becoming an aesthetic landmark in its own right. When a ship in the west channel of the Duwamish River approaches Harbor Island, the twin concrete segmental box girder leaves rise imperceptibly, part and swing toward the river banks in a slow-motion ballet, a spectacle that moves 15,000 tons of concrete in 2 min.

Each leaf has a 173.5 ft tail span and a 240 ft channel span, clearing the channel by 55 ft. This is 12 ft higher than the predecessor bascule structure, and the difference has reduced the need for openings for river traffic about by 30%. The swing bridge diverts some 3,000 trucks a day from the high bridge, giving them a more direct access into the industrial areas that line the river. As a bonus for pedestrians and cyclists, the bridge provides a more direct route for public access to West Seattle's beaches and trails (CE September 1990).

The unique design—this is the only hydraulically operated double-leaf concrete swing bridge in the world—is the engineering solution to the challenge posed in the Duwamish Waterway Improvement plan, which calls for widening the existing 150 ft channel to 250 ft. The existing bascule was skewed 45 deg. To the channel, and reusing the right-of-way meant a clear span length of 353 ft, an enormous reach for a bascule bridge. The answer was a swing structure with two pivot piers on the river banks rather than the usual single pivot midchannel.

In the final design, the span between the center line of the pivot piers is 480 ft, and constructing the leaves in the open position kept the channel open for shipping. Because the new piers and open leaves are well outside the channel markers, maritime officials feel that this stretch of the waterway is now reasonably collisionproof. Even with the existing channel, large ocean freighters are better able to navigate the waterway to upriver marine terminals and industries.

The transportation corridor that serves Harbor Island also serves West Seattle, where about a quarter of the city's population lives. It carries more than 70,000 vehicles per day, 12,000 of which are heavy trucks, with links to two interstate highways, a major state highway and the downtown area. For the engineers and contractors, the biggest site problems involved keeping major industrial traffic moving at all times of the day and night, moving an electrical tower and relocating water and telephone lines without disrupting service to 70,000 people.

Traffic detours were well publicized, and a toll-free van/shuttle carried more than 64,000 bicyclists and pedestrians over the high-level bridge during construction. (By themselves, they are excluded from the high bridge.) a design/construction oversight committee representing the community, businesses and local government agencies met regularly to discuss progress.

Migrating fish had to be protected at all costs, so in-water construction was halted between March 15 and June 15. During demolition of the old bridge piers, the contractor fabricated a temporary "air curtain" of polyvinyl chloride perforated pipe and high-pressure air pumps. The curtain absorbed about 80% of the pressure wave created by the underwater blasts, and no salmon or steelhead fish were lost.

Finally, the innovative design caused fiscal problems. When the cry was raised that no one had built such a heavy swing bridge before, the Federal Highway Administration declined to fund it, although the agency did contribute $7.2 million for approaches. The design team produced two alternates that were to hold down costs by increasing the bidding competition. The segmental concrete version came at $33.5 million, but no one bid on the composite concrete and steel design.

Moving the 7,500 ton leaves is an engineering feat in itself, and city officials were apprehensive about the innovations this entailed. No one was sure that the lift-turn pistons would work, so the city required testing of a half-scale model hooked to a computer that simulated 10 year's use. Taken apart after the test, the model shows no wear on seals or surfaces.

Normally, a swing bridge pivots on a fixed center bearing, with balance wheels to stabilize the span during operation and wedges to immobilize the span for roadway traffic. Seismic design considerations, as well as the unprecedented weight made these normal machines components impractical. The designers turned to hydraulics: A 9 ft. diameter hydraulic cylinder lifts the bridge off its stationary service bearings and provides an oil bearing for rotation. Hydraulic cylinders propel the leaves, drive and retract the center and tail locks. The skew, which had lengthened the span to problem proportions, shortened the retraction path of the leaves to 45 deg.

Redundancy was an important design factor. In each pier house, two of the three 100 hp, 125 gpm hydraulic pumps supply power for the hydraulic system, while designation of the spare third is rotated among them. In extreme emergencies, each leaf could be moved by only one slewing cylinder or even against the friction of the service bearings should the lift-turn cylinder fail to operate. These maneuvers would require manual overrides of pressure-relief valves in the hydraulic system, and could damage some of the service bearings.

Although the locks are designed to be driven against a ½ in. misalignment, each box girder has enough torsional stiffness so that locks are required only at the center line. In the operating position, a large steel locking

bar at midstream connects the tips of the leaves together, and a similar tail lock connects the end of each movable leaf to the approach structure. The locks are driven and horizontally retracted by independent hydraulic cylinders operated by separate pumps. In a power failure, emergency generators housed in the lower level of each pier house come on line. These generators are rated at 350 kw, and burn diesel fuel stored in tanks located in the pier houses.

The control tower, adjacent to but separate from the west pivot pier, is 120 ft. above the water, giving the bridge operator clear views of the channel and the approach roadways. Normally, a computer controls the operation; it pushes the buttons, checks the interlocks and tracks status on a monitor. The human operator can, however, interrupt most of the steps with manual override. Each operation in the carefully orchestrated sequence must be complete and checked by the system before the next is started. For instance, all traffic and pedestrian safety gates are in place before the locks are withdrawn. Total elapsed time for an opening, including halting vehicular traffic with lights and gates, is 4.5 min.

To open the bridge, two hydraulic slewing cylinders with a 24 in. diameter piston and a 92 in. stroke rotate each leaf at 0.57 deg./sec. Hydraulic buffers stop each leaf in 0.44 deg. of travel. Open-position buffers are located on the roof of the pier house and contact stops on the inner surface of the transition element core. Tail-span buffers are located on the approach span piers. Because closing speeds are reduced to 35% of normal at the point of contact with the buffers, the buffer loads during normal operation are quite small.

The design engineers established the dimensions of each cantilever leaf according to its proximity to the high-level bridge. The leaves are bobtailed in the tail section—they could not be made symmetrical about the pivot shaft because of the restricted space available to clear the existing bridge pier. The east leaf, with its tail span of 173 ft, tucks under the high-level bridge during slewing, just clearing the nearest column; the west leaf is identical but its channel span tucks under the high-level bridge.

The pier houses are 42 ft in diameter, with 32 in. thick concrete walls. They house the machinery, emergency generators and part of the control system, and are carried by reinforced concrete footings that bear on 36 in. concrete-filled steel pipe piles. Each pier table is supported by a transition element that provides two load paths to the foundation. When the bridge is open to vehicular traffic, the load path goes through a conical shall to the walls of the pier house. (Service bearings composed of steel plates with reinforced elastomers separate the transition element from the roof of the pier house.)

In the operating position, the entire movable leaf, including the transition element and pivot shaft, is raised about 1 in. to transfer the load from the service bearings to the pivot shaft a concrete-filled steel shell resting on the hydraulically operated lift-turn cylinder.

The exacting tolerances specified for manufacture and installation of the mechanical components were similar to those used to set turbines and generators. The 12 ft diameter pivot shafts were made in three sections, machined and assembled in the shop, then subjected to a run-out test on a horizontal axis. The two journals are circular within 0.004 in., and the base of the cylinder is perpendicular to the axis within 0.007 in. Similar tolerances were met after the cylinders were disassembled, shipped and reassembled on site. The test were made both before and after the cylinders were filled with concrete.

DESIGN PRECAUTIONS

The design engineers took precautions to make the swing bridge earthquake resistant. They had to consider all elements of the project—approaches, movable leaves, piers and locks—in light of Seattle's designation as being in UBC Zone III. Soils near the mouth of the Duwamish River would be subject to liquefaction and potential ground subsidence in a severe earthquake. They range from hydraulic fill and recent alluvial sands and silts to heavily preconsolidated glacial till, all interspersed with lenses of loose silt. Depth to the solid till formation varies from 50 ft on the west 200 ft. on the east.

The engineers specified vibroflotation to densify the problem soils in order to prevent loss of lateral containment of soil around the upper portion of the piles supporting the piers, which are located in the sloping banks of the channel excavation. Special seismic isolation sleeves—48 in. diameter steel pipes—surrounding each pile control the elevation at which the piles begin to receive lateral support from surrounding soils. This arrangement creates a center of rigidity at the same location as the center of mass, minimizing torsional problems that would arise during an earthquake if the lateral stiffness varied from pile to pile. The sleeves also support the tremie seal, which is separate from the footing so these components can move independently during a shock.

Other precautions involved provisions for future maintenance. The designers provided safe access for inspectors and maintenance personnel plus adequate openings for removal and replacement of each piece of machinery. The 9 ft diameter hydraulic lift-turn cylinders, for instance, weigh about 5 tons each.

Because the concrete box girders have free ends rather than ends fixed to piers, control of long-term deformations was a major concern during design. The leaves contain more post-tensioning than required for stress control for the final dead-load balancing. As a precaution, there are several unbonded tendons that can be stressed in the future to account for unanticipated deflection.

Superplasticizers added to the high-strength concrete mix reduced water requirements and provided workability with minimum shrinkage and creep. Thermocouples embedded in the concrete permitted close monitoring of strength development, which in turn allowed early prestressing.

The segmental box girders were cast in place. First, the 60 ft long pier tables were cast in the closed position to control stresses on the service bearings that transmit the loads to the pier house walls. Then the pier tables were moved to the open position, and work proceeded simultaneously on both leaves so that incremental adjustments could be made for matching the elevations of opposing segments. Prior to casting the last two segments on each arm of the leaves, the bridge was swung to the closed position to check the alignment and profile. No major adjustments were required in the formwork as a result of these checks. A 2 in. thick overlay of latex-modified concrete provides the traffic surface.

CREDITS

The project, sponsored by the Seattle Engineering Department, is owned by the city of Seattle. Funding also came from the Port of Seattle, King County, Washington State DOT and the Federal Highway Administration. The joint venture West Seattle Bridge Design Team was composed of Andersen Bjornstad Kane Jacobs, Inc., Seattle, and the local offices of Parsons Brinckerhoff Quade & Douglas, Tudor Engineering, Inc., Contech Consultants (segmental concrete) and Hamilton Engineering Inc. (hydraulic machinery). Elcon, Portland, Ore., provided electrical design for power and illumination.

The construction contract was awarded to joint venture Kiewit-Global in December 1988, which completed the project in 608 workings days (about 28 months). If also involved 49 subcontractors. After utility work was completed, the bridge was opened to traffic in August 1991.

The West Seattle Low-Level Swing Bridge was nominated by Rich Hovey, Director of District 12. This is the third Outstanding Civil Engineering Achievement prize in a row for the District. In 1991, it went to the decade's effort by the U.S. Army Corps of Engineers in response to the eruption of Mount St. Helens, and in 1990, the winner was the Mount Baker Ridge Tunnel and its lidded approaches, in another part of Seattle.●

ORDERS FOR TUESDAY

Mr. HOLLINGS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:15 a.m., Tuesday, July 28; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the first 30 minutes of morning business under the control of the majority leader or his designee; with Senator GORTON recognized for up to 10 minutes and Senator COATS for up to 5 minutes; that upon the third reading of S. 3026, the State, Justice, Commerce appropriations bill, the Senate then proceed to the consideration of Calendar No. 560, H.R. 5487, the Agriculture appropriations bill; that on tomorrow, Tuesday, the Senate stand in recess from 12:30 p.m. to 2:15 p.m., in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. HOLLINGS. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:25 p.m., recessed until 9:15 a.m., Tuesday, July 28, 1992.

NOMINATIONS

Executive nominations received by the Senate July 27, 1992:

THE JUDICIARY

R. EDGAR CAMPBELL, OF GEORGIA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF GEORGIA VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

JOANNA SEYBERT, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

NATIONAL INSTITUTE FOR LITERACY

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE NATIONAL INSTITUTE BOARD FOR THE NATIONAL INSTITUTE FOR LITERACY FOR TERMS OF 3 YEARS (NEW POSITIONS):

JOHN CORCORAN, OF CALIFORNIA
HELEN B. CROUCH, OF NEW YORK
SHARON DARLING, OF KENTUCKY
JIM EDGAR, OF ILLINOIS
JON DEVEAUX, OF NEW YORK
RONALD M. GILLUM, OF MICHIGAN
BENITA C. SOMERFIELD, OF NEW YORK
SUSAN ANN VOGEL, OF ILLINOIS

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

U.S. INFORMATION AGENCY

GENE ERNEST BIGLER, II, OF CALIFORNIA
LESLIE C. HIGH, OF PENNSYLVANIA
HELEN MARGIOU, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 3, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

MICHAEL EMBACH THURSTON, OF WASHINGTON

DEPARTMENT OF AGRICULTURE

STEVEN D. SHNITZLER, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 4, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

LUCY K. ABBOTT, OF MAINE
AMIT AGARWAL, OF CALIFORNIA
THOMAS HART ARMBRUSTER, OF HAWAII
DORON DAVID BARD, OF MARYLAND
PETER HENRY BARLERIN, OF MARYLAND
BERTRAM DOMINICUS BRAUN, OF NEW YORK
PAULA M. BRAVO, OF CALIFORNIA
KEVIN L. BRISCOE, OF ILLINOIS
R. DOUGLAS BROWN, OF WASHINGTON
STEPHANIE LAFOREST BROWN, OF MARYLAND
GREGORY S. BURTON, OF VIRGINIA
ROGER AUGUSTUS CARIGNAN, OF MASSACHUSETTS
JOHN LESLIE CARWILE, OF MARYLAND
CHRISTIAN M. CASTRO, OF MASSACHUSETTS
GARY ALLAN CLEMENTS, OF MASSACHUSETTS
PAUL THOMAS DALEY, OF PENNSYLVANIA
JOHN PAUL DESROCHER, OF NEW YORK
DAVID DIGIOVANNA, OF NEW YORK
CHRISTOPHER ANDREW ELLIS, OF CALIFORNIA
SIGRID EMRICH, OF MINNESOTA
MARILYN ERESHEFSKY, OF CALIFORNIA
ARLENE LORRAINE FERRILL, OF CALIFORNIA
MICHAEL HAROLD FINEGAN, OF VIRGINIA
JOHN M. FINKBEINER, JR., OF CALIFORNIA
GEORGE ARMAND FORSYTH, OF TEXAS
ROBERT ARTHUR FRAZIER, OF TEXAS
MICHAEL ANTHONY GAYLE, OF VIRGINIA
PHILIP S. GOLDBERG, OF NEW YORK
JOHN FRYAR GUERRA, OF TEXAS
LINDA HALEY, OF TEXAS
ROBIN LORENE HAASE, OF FLORIDA
JAMES W. HABRON, JR., OF NEW JERSEY
MICHAEL A. HAMMER, OF CALIFORNIA
DAMIEN HINCKLEY, OF VIRGINIA
GEORGE HAMILL HOGEMAN, OF NEW YORK
PATRICK S. HOTZE, OF KANSAS
L. VICTOR HURTADO, OF COLORADO
TRACEY ANN JACOBSON, OF CALIFORNIA
DIANE ELIZABETH KELLY, OF NEW YORK
SUNG Y. KIM, OF CALIFORNIA
CLARA E. M. KYIM, OF NEW YORK
MARY BETH LEONARD, OF THE DISTRICT OF COLUMBIA
WILLIAM W. LESH, OF FLORIDA
KAREN T. LEVINE, OF NEW YORK
JOHN OREN MAHER, OF FLORIDA
THOMAS B. MCCUDDEN, OF ILLINOIS
GEORGE KENNETH MCGHEE, OF CALIFORNIA
MATTHEW MCKEEVER, OF THE DISTRICT OF COLUMBIA
ROBIN DIANE MEYER, OF THE DISTRICT OF COLUMBIA
MARC JENNEWEIN MEZNAR, OF TEXAS
SEAN MURPHY, OF MASSACHUSETTS
THEODORE GEORGE OSIUS, III, OF THE DISTRICT OF COLUMBIA
FRANK W. OSTRANDER, OF FLORIDA
GEETA PASI, OF NEW YORK
WILLIAM LEE RADA, OF OREGON
PENELOPE ADAMS ROGERS, OF HAWAII
DANIEL H. RUBINSTEIN, OF CALIFORNIA
CARL E. SCHONANDER, OF TEXAS
WILLIAM RYON SILKWORTH, OF NORTH CAROLINA
LAWRENCE ROBERT SILVERMAN, OF VIRGINIA
BEATRICE PEARSON SOILA, OF CALIFORNIA
JAMES A STEWART, OF OREGON
HERBERT L. TREGER, OF VIRGINIA
VICTOR A. VOCKERODT, OF MARYLAND
THOMAS WEINZ, OF WASHINGTON
ALICE G. WELLS, OF CALIFORNIA

DEPARTMENT OF AGRICULTURE

KATHLEEN MOORE, OF MARYLAND

U.S. INFORMATION AGENCY

AMY J. CRUTCHFIELD, OF CALIFORNIA
SUSAN DOMOWITZ, OF IDAHO
KATHLEEN M. FAIRFAX, OF TEXAS
KAREN DENISE KELLEY FAYE, OF VIRGINIA
DAVID HUNTER KENNEDY, OF VERMONT
MARK S. LUEBKER, OF TEXAS
PAUL BERNARD PATIN, OF TEXAS
DALE T. PRINCE, OF MICHIGAN
MARRIE Y. SCHAEFER, OF CALIFORNIA
JEFFREY R. SEXTON, OF NEVADA
SHIRLEY OLIVIA STANTON, OF TEXAS
MARY THOMPSON-JONES, OF CALIFORNIA
RAYMOND TRIPP, OF NEW YORK
PHILLIP JAMES WALKER, OF NEW HAMPSHIRE

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENTS OF STATE, AGRICULTURE AND COMMERCE AND THE UNITED STATES INFORMATION AGENCY TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

JULIE DEIDRA ADAMS, OF MARYLAND
GREGORY J. ADAMSON, OF CALIFORNIA
EILEEN ANNE AMER, OF OHIO
RANDY B. BECK, OF OREGON
JOSEPH ANDREW BOOKBINDER, OF NEW YORK
SCOTT DOUGLAS BOSWELL, OF NEW JERSEY
JOHN C. BRINDLE, OF VIRGINIA
ROBERT HAROLD CHRISMAN, OF FLORIDA
JAMES GREGORY CHRISTIANSEN, OF DISTRICT OF COLUMBIA
JOHN CHARLES COE, OF FLORIDA
JENNIFER L. DENHARD, OF MARYLAND
MARI DIETERICH, OF TEXAS
MARY DOETSCH, OF ILLINOIS
SAMUEL DICKSON DYKEMA, OF WISCONSIN
JONI ALICIA FINEGOLD, OF MASSACHUSETTS
MARIA M. FRATUS, OF OHIO
LARA SUZANNE FRIEDMAN, OF ARIZONA
JOYCE W. GILLGREN, OF FLORIDA
CHRISTINE ANNE HAROLD, OF MARYLAND
MARJORIE R. HARRISON, OF PENNSYLVANIA
JOHN DAVID HAYNES, OF COLORADO
MICHAEL G. HEATH, OF CALIFORNIA
GARY B. HILBURN, OF VIRGINIA
GLEN W. HOSKIN, OF VIRGINIA
KATHERINE HOWARD, OF MARYLAND
BRUCE K. HUDSPETH, OF ARIZONA
GERALDINE JOBES, OF WASHINGTON
LISA A. JOHNSON, OF VIRGINIA
MICHAEL ROBERT KELLER, OF FLORIDA
PATRICIA KATHLEEN KELLER, OF VIRGINIA
MAURA MARGARET KENISTON, OF NEW YORK
GEORGE P. KENT, OF VIRGINIA
KARLA B. KING, OF MARYLAND
PHILIP GRAHAM LAIDLAW, OF FLORIDA
CHARLES CHOULMOH LEE, OF MARYLAND
DAVID JON LYKINS, OF VIRGINIA
JOHN KEVIN MADDEN, OF ARKANSAS
SHERRIE LYNN MARAFINO, OF PENNSYLVANIA
RAYMOND DOUGLAS MAXWELL, OF NORTH CAROLINA
MARY BETH MCEVOY, OF NEW YORK
JUDITH SAYLER OLMER, OF MARYLAND
SANDRA JEAN PEACOCK, OF VIRGINIA
RENEE POLEWAY, OF VIRGINIA
JAMES PAUL POPE, OF VIRGINIA
EMIKO MIYASAKA PURDY, OF VIRGINIA
CHARLOTTE ALISON QUINN, OF MARYLAND
PHILIP THOMAS REEKER , OF NEW YORK
MICHAEL J. RICHARDSON, OF FLORIDA
R. STEPHEN SCHERMERHORN, OF COLORADO
CHARLES REVERDAN SCRIBNER, OF VIRGINIA
MADELINE QUINN SEIDENSTRICKER, OF FLORIDA
WILLIAM E. SHEA, OF FLORIDA
ROBERT A. SHEETS, OF VIRGINIA
GARY R. SIGMON, OF VIRGINIA
JOHN KIRBY SIMON, OF CONNECTICUT
MICHAEL WILLIAM STANTON, OF VIRGINIA
RODNEY M. THOMAS, OF VIRGINIA
MARK TONER, OF PENNSYLVANIA
LESSLIE CLAY VIGUERIE, OF THE DISTRICT OF COLUMBIA
SCOTT DAVID WEINHOLD, OF VIRGINIA
DALE EDWARD WEST, OF TEXAS
ROSA MARIA WHITAKER, OF THE DISTRICT OF COLUMBIA
CHRISTINE LOUISE WINES, OF FLORIDA
TERRENCE K.H. WONG, OF WASHINGTON
DIANA ELIZABETH WOOD, OF THE DISTRICT OF COLUMBIA
CHARLES B. WOODWARD, JR., OF VIRGINIA